

# Exhibit T

Willie Mae Wilburn

Page 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

IN RE: DIGITEK PRODUCT LIABILITY ) MDL NO. 1968  
LITIGATION )

THIS DOCUMENT RELATES ONLY TO: )

Kevin Clark and Willie Mae )  
Wilburn, Individually and on )  
behalf of all others similarly )  
situated, )  
Plaintiffs, )

vs. ) MDL NO. 2:08-1017

ACTAVIS GROUP, hf, et al., )  
Defendants. )

Deposition of WILLIE MAE WILBURN, taken before  
NADINE J. WATTS, CSR, RPR, and Notary Public, pursuant  
to the Federal Rules of Civil Procedure for the United  
States District Courts pertaining to the taking of  
depositions, at Suite 5500, 233 South Wacker Drive, in  
the City of Chicago, Cook County, Illinois, at 9:25  
o'clock a.m. on the 6th day of August, A.D., 2009.

Page 3

DEPOSITION OF WILLIE MAE WILBURN  
TAKEN AUGUST 6, 2009

EXAMINATION BY PAGE  
Mr. John A. Simon 4, 126, 138  
Ms. Sarah E. West 108  
Mr. John R. Malkinson 127, 139

EXHIBITS

PAGE  
Deposition Exhibit No. 1 8  
Digitek Plaintiff Fact Sheet

Page 2

1 There were present at the taking of this  
2 deposition the following counsel:

3 MALKINSON & HALPERN, PC by  
4 MR. JOHN R. MALKINSON  
223 West Jackson Boulevard  
Suite 1010  
5 Chicago, Illinois 60606  
(312) 427-9600

6 on behalf of the Plaintiffs;

7 TUCKER, ELLIS & WEST, LLP by  
8 MR. JOHN A. SIMON  
1150 Huntington Building  
9 925 Euclid Avenue  
Cleveland, Ohio 44115  
(216) 696-2354

10 on behalf of Defendant Actavis Totowa LLC;  
11 SHOOK, HARDY & BACON, LLP by  
12 MS. SARAH E. WEST  
2555 Grand Boulevard  
13 Kansas City, Missouri 64108  
(816) 474-6550

14 on behalf of Defendants Mylan  
15 Pharmaceuticals, Inc., Mylan Bertek  
16 Pharmaceuticals, Inc. and UDL  
Laboratories, Inc.

Page 4

1 WILLIE MAE WILBURN,  
2 called as a witness herein, having been first duly  
3 sworn, was examined upon oral interrogatories and  
4 testified as follows:

EXAMINATION

by Mr. Simon:

7 MR. SIMON: Q Mrs. Wilburn, my name is John Simon.  
8 I represent the Actavis defendants in the lawsuit you  
9 filed. This is Sarah West. She represents the Mylan  
10 defendants in the lawsuit that you filed.

11 We're here today, this morning, to take your  
12 deposition. It's our understanding that you've agreed  
13 to be a class representative?

14 A Yes.

15 Q Could you state your full name for the record,  
16 please.

17 A Willie Mae Wilburn.

18 Q And what is your address, Mrs. Wilburn?

19 A [REDACTED]

20 [REDACTED]  
21 Q And how long have you lived at that address?

22 A I've lived there 34 years.

23 Q With whom do you currently live?

24 A At the same address.

25 Q With whom? Who lives with you?

1 (Pages 1 to 4)

Willie Mae Wilburn

Page 5

1 A My husband.  
 2 Q And what is your husband's name?  
 3 A Homer Wilburn. Homer Wilburn.  
 4 Q It's my understanding that you are not making a  
 5 lost wage claim in this lawsuit; is that correct?  
 6 A No.  
 7 Q That is correct, you're not making a lost wage  
 8 claim?  
 9 A A Lost wage claim?  
 10 MR. MALKINSON: You're not claiming lost wages?  
 11 THE WITNESS: No, no.  
 12 MR. SIMON: Q Are you retired?  
 13 A Yes.  
 14 Q Where are you retired from?  
 15 A I worked for Loretto Hospital for years. You  
 16 know, a little while for the Board of Education.  
 17 Q And when did you retire?  
 18 A In 1997.  
 19 Q And what was your last position you held before  
 20 you retired?  
 21 A I was helping kids at school, monitoring.  
 22 Q Have you ever given a deposition before?  
 23 A No, I haven't.  
 24 Q A deposition is basically a question and answer  
 25 session. I'm going to be asking you a number of

Page 6

1 questions about this lawsuit and about you in general,  
 2 and you are going to provide the answers. Okay?  
 3 A Okay.  
 4 Q In the event you don't understand one of my  
 5 questions, it doesn't make sense to you, please let me  
 6 know. I'll be happy to rephrase it or repeat it. Okay?  
 7 A Okay.  
 8 Q If you need to take a break for any reason, just  
 9 let me know and we'll be happy to accommodate you.  
 10 Okay?  
 11 A Okay.  
 12 Q The only thing I would ask is that you wait  
 13 until you complete your answer to a question before we  
 14 take a break. Okay?  
 15 A Okay.  
 16 Q Have you ever brought a lawsuit before?  
 17 A No, I haven't.  
 18 Q Have you ever been sued?  
 19 A No.  
 20 Q Have you ever been convicted of a crime?  
 21 A No.  
 22 Q Have you ever filed a workers' compensation  
 23 claim?  
 24 A No.  
 25 Q Have you ever filed a Social Security disability

Page 7

1 claim?  
 2 A No.  
 3 Q What did you do to prepare for today's  
 4 deposition?  
 5 A I went over some of the definitions.  
 6 Q You went over some of the definitions of what?  
 7 A A while back, when my lawyers sent me something  
 8 to look at.  
 9 Q Did you review actual materials or documents?  
 10 A Some of them. Most I left for my lawyer.  
 11 Q What did you specifically review --  
 12 MR. MALKINSON: He's asking what you reviewed to get  
 13 ready for the deposition.  
 14 THE WITNESS: I reviewed that I'm representing the  
 15 class.  
 16 MR. MALKINSON: He's asking you what, if any,  
 17 documents you looked at. That's his question right now.  
 18 THE WITNESS: Oh, I looked at my -- all expenses  
 19 that I paid out.  
 20 MR. SIMON: Q Okay. So you looked at some sort of  
 21 written records that showed the expenses you paid for  
 22 your Digitek and medical care?  
 23 A Yes.  
 24 Q What else did you review?  
 25 A I reviewed some of the Digitek, you know,

Page 8

1 that -- when I was taking it.  
 2 Q What did you review about the Digitek?  
 3 A When I get my prescription, I look over some of  
 4 it. You know, they send you a paper that tell you about  
 5 the Digitek. I just looked over a little bit of it.  
 6 Q Okay. So when you pick up a prescription from  
 7 the pharmacy, they give you information?  
 8 A Yes.  
 9 Q And is that what you reviewed also for the  
 10 deposition?  
 11 A Yes.  
 12 Q Okay. Besides the record of the medical bills,  
 13 the pharmacy bills and the information on Digitek you  
 14 receive from the pharmacy, what else did you review to  
 15 prepare for today's deposition?  
 16 A What else I reviewed? I looked at some papers,  
 17 you know.  
 18 Q Okay. What type of papers? Describe the papers  
 19 for me.  
 20 MR. MALKINSON: She reviewed the fact sheet. She  
 21 has no knowledge of what it's called.  
 22 MR. SIMON: Could you please mark that as Exhibit 1.  
 23 (Document marked as Deposition  
 24 Exhibit 1 for identification.)  
 25 MR. MALKINSON: We have two small corrections. Not

2 (Pages 5 to 8)

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Page 9

1 corrections, actually additions.  
2 MR. SIMON: Okay.  
3 MR. MALKINSON: One is an ER visit that you guys  
4 actually have the record of that somehow didn't make it  
5 onto page 15. And in her list of expenses we neglected  
6 to include the actual pills as one of the expenses.  
7 That's page 5.  
8 Page 15 asks if you have been an inpatient or  
9 outpatient. She answered it, but forgot the one ER  
10 visit on May 4th of '08 that she had.  
11 MR. SIMON: Okay. Did you by chance bring the  
12 prescription vials and tablets with you today?  
13 MR. MALKINSON: Yes, I have that.  
14 MR. SIMON: Q Mrs. Wilburn, handing you what's  
15 been marked as Exhibit I, can you take a look at that.  
16 MR. MALKINSON: You can flip through it to see if  
17 it's the one you signed. That's your signature.  
18 I think she's flipped through it if you have a  
19 question you want to ask her.  
20 MR. SIMON: Q Mrs. Wilburn, Plaintiffs -- I mean  
21 Exhibit I is Plaintiff's Fact Sheet in this case. Is  
22 that another one of the documents you reviewed for your  
23 deposition today?  
24 A Yes.  
25 Q You can hold on to that.

Page 10

1 And does your signature appear on that  
2 document?  
3 A On the back sheet?  
4 MR. MALKINSON: On here. He's asking you if your  
5 signature appears on there.  
6 THE WITNESS: On here, yes.  
7 MR. SIMON: Q And you signed that on, it appears,  
8 April 22nd, 2009?  
9 A Yes.  
10 Q Now, your attorney has indicated that you have  
11 some additions that you'd like to make to the fact sheet  
12 responses you made. And the first one he referenced was  
13 on page 5. And, Counsel, you can help us with this. It  
14 had something to do with the Digitek --  
15 MR. MALKINSON: Have you incurred out-of-pocket  
16 expenses, and she lists the medical care. What was  
17 inadvertently omitted was the expense for the purchase  
18 of the recalled Digitek.  
19 MR. SIMON: Okay. Is that in response to question  
20 No. 6?  
21 MR. MALKINSON: Correct. The other is on page 15.  
22 MR. SIMON: Q Okay. Your counsel also indicated  
23 that you would like to make an addition on page 15 of  
24 the Plaintiff Fact Sheet. What addition needs to be  
25 made for completeness?

Page 11

1 A I think I forgot to give him when I went to the  
2 emergency room.  
3 Q Okay.  
4 A The expenses I paid then.  
5 Q Okay. What hospital did you go to the emergency  
6 room at that you'd like to add?  
7 A West Suburban.  
8 MR. MALKINSON: That would be 5-08, the emergency  
9 room visit. I think it's 5-4 of '08.  
10 MR. SIMON: Q Having made those additions to the  
11 Plaintiff Fact Sheet, are those answers you provided  
12 accurate and complete now?  
13 A Yes.  
14 MR. MALKINSON: I'll just add the drugstore. She's  
15 always used the same one, but it says approximation  
16 dates or years. It should have said since 1999, and it  
17 just says 1999.  
18 MR. SIMON: Q Did you meet with anyone to prepare  
19 for today's deposition?  
20 A No.  
21 MR. MALKINSON: Well, you met with me.  
22 THE WITNESS: Oh, yes.  
23 MR. SIMON: Q When did you meet with Mr. Malkinson  
24 to prepare for today's deposition?  
25 A I met I think yesterday.

Page 12

1 Q And where did you meet?  
2 A I met in the office.  
3 Q And how long did you meet for?  
4 A I can't recall the hours.  
5 MR. MALKINSON: Just your best estimate.  
6 THE WITNESS: Maybe two hours.  
7 MR. SIMON: Q Was anybody else present for the  
8 meeting?  
9 A No.  
10 Q Did you take any notes during the meeting?  
11 A A few.  
12 Q And what did you do with those notes?  
13 A I think I left them at home. I'm not sure.  
14 MR. MALKINSON: I hope you left them at home.  
15 THE WITNESS: I did. I left them at home.  
16 MR. SIMON: Q What do you recall the notes -- What  
17 do you recall about the notes? Tell me about them.  
18 A Just went over some of the things in a  
19 deposition, the definitions.  
20 Q You went over some of the things for the  
21 deposition and definitions; is that correct?  
22 A Some of the things, yes.  
23 Q What type of definitions do you remember?  
24 A My medical. My medical.  
25 Q Your Medicare?

3 (Pages 9 to 12)

Page 13	Page 15
<p>1 A My medical by my doctor.</p> <p>2 Q You reviewed -- Excuse me. Did you review any</p> <p>3 medical records?</p> <p>4 A Yes.</p> <p>5 MR. MALKINSON: Well, you didn't review any medical</p> <p>6 records, did you?</p> <p>7 THE WITNESS: No, I didn't review.</p> <p>8 MR. MALKINSON: He's just asking you if you recall</p> <p>9 what, if anything, you took notes about.</p> <p>10 THE WITNESS: Some of the dates.</p> <p>11 MR. SIMON: Q Some of the dates for what?</p> <p>12 A You know, when I went to the doctor.</p> <p>13 Q Do you recall anything else about that meeting?</p> <p>14 MR. MALKINSON: Well, I'm going to object to that</p> <p>15 and instruct her not to answer since it invades the</p> <p>16 attorney-client privileges.</p> <p>17 MR. SIMON: Q strike that. I'll withdraw it.</p> <p>18 How did you learn that you might have a claim</p> <p>19 due to your use of Digitek?</p> <p>20 A I had to keep going to the doctor, and I was</p> <p>21 feeling bad and things, and so I -- my friend, she knew</p> <p>22 a lawyer and I asked him about that lawyer. So the</p> <p>23 lawyer referred me to him.</p> <p>24 Q Do you know any other people who are bringing a</p> <p>25 lawsuit for their use of Digitek?</p>	<p>1 Q And what did he or she tell you about Digitek?</p> <p>2 A Just told me they had recalled Digitek and don't</p> <p>3 take any more and just bring -- bring them in to the</p> <p>4 pharmacy.</p> <p>5 Q So what did you do after you received that phone</p> <p>6 call from the pharmacy?</p> <p>7 A Well, I just didn't take any more, and that was</p> <p>8 like Sunday evening. Monday I went to take the pills to</p> <p>9 them.</p> <p>10 Q Did you take all of your pills that you had to</p> <p>11 the pharmacy that next day?</p> <p>12 A No, not all of them.</p> <p>13 Q How many did you take to the pharmacy?</p> <p>14 A Four or -- four or six of them I think.</p> <p>15 Q And why did you decide to bring four or six of</p> <p>16 them to the pharmacy?</p> <p>17 A I didn't want to get rid of all of them because</p> <p>18 I didn't know in the future when I might need them.</p> <p>19 Q What happened when you brought the pills or</p> <p>20 tablets to the pharmacy? Tell me what you did.</p> <p>21 A She had taken them and she -- I had the bottle</p> <p>22 that I had, and she gave me some more, or another name I</p> <p>23 think by another company, and she gave me some to take,</p> <p>24 not a whole pill, a half a pill, and to take until I saw</p> <p>25 my doctor.</p>
Page 14	Page 16
<p>1 A No, I don't, but I know there's quite a few of</p> <p>2 them that's bringing.</p> <p>3 Q Do you know anyone else who used Digitek?</p> <p>4 A No, I don't.</p> <p>5 Q Do you know the names of any of the members of</p> <p>6 the class you are representing?</p> <p>7 A No, I don't.</p> <p>8 Q Do you know anyone else -- Do you know anyone</p> <p>9 else who believes they have health problems as a result</p> <p>10 of their use of Digitek?</p> <p>11 A No.</p> <p>12 MR. MALKINSON: In your questions, you mean does she</p> <p>13 personally know, does she personally know them?</p> <p>14 MR. SIMON: Correct.</p> <p>15 THE WITNESS: No, not personally.</p> <p>16 MR. SIMON: Q When did you learn about the recall</p> <p>17 of Digitek?</p> <p>18 A My pharmacy called me and told me to quit taking</p> <p>19 the Digitek, they had been recalled, and to bring the</p> <p>20 pills in.</p> <p>21 Q When did the pharmacy call you?</p> <p>22 A On the 27th of April.</p> <p>23 Q Do you remember who you spoke with?</p> <p>24 A I don't remember the name, the name, but I spoke</p> <p>25 with one of the pharmacists.</p>	<p>1 Q When you say she gave you, do you mean the</p> <p>2 pharmacist gave you --</p> <p>3 A Yes, yes.</p> <p>4 Q -- new pills?</p> <p>5 A Yes.</p> <p>6 Q Yes? How many did she give you?</p> <p>7 A I had a doctor --</p> <p>8 MR. MALKINSON: Just tell him how many pills she</p> <p>9 gave you, if you remember. If you don't remember, you</p> <p>10 don't remember.</p> <p>11 THE WITNESS: I can't remember.</p> <p>12 MR. MALKINSON: The pill bottle looks like it says</p> <p>13 seven. It's a handwritten note.</p> <p>14 MR. SIMON: Q What did the pharmacist instruct you</p> <p>15 to do after she gave you some replacement tablets?</p> <p>16 A She just told me to take them until I saw my</p> <p>17 doctor and the doctor give me more, another kind.</p> <p>18 Q Were you taking the same amount of pills that</p> <p>19 you were taking before you returned the Digitek?</p> <p>20 A Repeat, please.</p> <p>21 Q You said she gave you some replacement tablets,</p> <p>22 correct?</p> <p>23 A Yes.</p> <p>24 Q And then you mentioned something about you were</p> <p>25 taking half a tablet.</p>

4 (Pages 13 to 16)

Willie Mae Wilburn

Page 17

1 A Yes.  
 2 Q Tell me about that.  
 3 A The pharmacy told me to take a half a tablet.  
 4 MR. MALKINSON: They gave her .25s. They didn't  
 5 have .125s.  
 6 MR. SIMON: Q Were the tablets you received from  
 7 the pharmacy --  
 8 MR. MALKINSON: We've got half of one, just so you  
 9 know, so you can look at it.  
 10 MR. SIMON: Q Were the tablets you received from  
 11 the pharmacy broken in half already or did you have to  
 12 break them in half yourself?  
 13 A They broke them already.  
 14 Q How long was it -- Strike that.  
 15 After the pharmacy called you did you contact  
 16 your doctor?  
 17 A No. I had an appointment coming up very soon  
 18 and I just waited until my appointment.  
 19 Q Do you recall when your appointment was  
 20 scheduled for, how long after the call from the  
 21 pharmacy?  
 22 A I'd say about six days.  
 23 Q When did you first consider the possibility of  
 24 becoming involved in this lawsuit?  
 25 MR. MALKINSON: I'd just object to the form of the

Page 18

1 question because she didn't become involved in  
 2 something. She filed a lawsuit. There wasn't anything  
 3 to become involved in at the time.  
 4 MR. SIMON: Q When did you first consider filing  
 5 this lawsuit?  
 6 A After I had -- I had taken the pills and I had  
 7 episodes after.  
 8 MR. MALKINSON: Are you done with your answer?  
 9 THE WITNESS: Yes.  
 10 MR. SIMON: Q Can you give me a timeframe as to  
 11 when you considered filing this lawsuit after you heard  
 12 from the pharmacy about the Digitek recall?  
 13 MR. MALKINSON: If you recall. If you don't recall  
 14 the dates, I don't want you to guess.  
 15 THE WITNESS: I don't recall the date.  
 16 MR. SIMON: Q Who suggested that you file a  
 17 lawsuit?  
 18 A Myself.  
 19 Q Did you discuss filing a lawsuit with anyone  
 20 before --  
 21 A No.  
 22 Q -- you filed it?  
 23 A No.  
 24 MR. MALKINSON: You mean other than her lawyers I  
 25 assume?

Page 19

1 MR. SIMON: Q How did you first hear of the  
 2 Malkinson & Halpern law firm?  
 3 MR. MALKINSON: I'll object because it's been asked  
 4 and answered. You can answer.  
 5 THE WITNESS: I had a friend that knew another  
 6 lawyer, so she told me about that lawyer, that that  
 7 lawyer represent me.  
 8 MR. SIMON: Q Who was your friend that suggested  
 9 the name of a lawyer?  
 10 A My daughter-in-law.  
 11 Q And what is your daughter-in-law's name?  
 12 A [REDACTED]  
 13 Q And what was the name of the attorney that  
 14 [REDACTED] recommended to you?  
 15 A I don't recall his name.  
 16 Q How did [REDACTED] know of this other lawyer?  
 17 A She knew a friend that knew this lawyer.  
 18 Q Did you meet with this other lawyer?  
 19 A No.  
 20 Q And it was this other lawyer who referred you to  
 21 Mr. Malkinson, correct?  
 22 A Yes.  
 23 Q Have you spoken to any other lawyers other than  
 24 your law firm concerning this lawsuit?  
 25 A No.

Page 20

1 Q What is your understanding of this lawsuit?  
 2 A Well, myself, I'm bringing the lawsuit by myself  
 3 and other people that had taken the Digitek, and we like  
 4 are -- financial-wise, we were taking the Digitek, why  
 5 they were recalling the Digitek.  
 6 Q What do you think has been done wrong to you?  
 7 A In what way?  
 8 Q What do you claim was done wrong to you from  
 9 your use of Digitek?  
 10 A When I had -- I was -- I had to take a lot of  
 11 tests and things and paid out a lot of expenses.  
 12 Q Other than having to undergo tests and paying  
 13 for those tests, how else do you feel you were wronged  
 14 by your use of Digitek?  
 15 A And one thing, I feel that they didn't let us  
 16 know. Just they let us know right at the recall, and it  
 17 looked like it should have been out before then. They  
 18 let you take that Digitek up until the recall and then  
 19 it damaged.  
 20 Q What do you hope to receive as a result of this  
 21 lawsuit?  
 22 A I hope to receive the expenses and stuff and --  
 23 Q What expenses do you seek to have reimbursed?  
 24 MR. MALKINSON: I'm just going to object to the  
 25 extent that calls for something that her attorneys would

5 (Pages 17 to 20)

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Willie Mae Wilburn

Page 21

1 be -- that she hired lawyers for, but I'm going to allow  
 2 her to give her own answer.  
 3 THE WITNESS: What --  
 4 MR. MALKINSON: What expenses?  
 5 THE WITNESS: Medical expenses. I went through all  
 6 those tests, and that was kind of painful.  
 7 MR. SIMON: Q Other than medical expenses and  
 8 tests, what other expenses do you seek to recover in  
 9 this lawsuit?  
 10 A The episodes I had.  
 11 Q What episodes did you experience?  
 12 A One time -- Excuse me. One time I was going to  
 13 pick up my medicine. That's when they changed the  
 14 medication. I got to the drugstore, I couldn't get out  
 15 of my car because I was nervous and weak and couldn't  
 16 move, and I had to sit there for a little while before I  
 17 could get out.  
 18 Then I was weak and a headache. And then I  
 19 went and got my medicine. I went by another -- I had to  
 20 sit there before I can drive because I was afraid  
 21 something may happen.  
 22 Then when I felt a little better, I got my  
 23 composure a little bit and went to another store. Then  
 24 it was the same thing. So that store had some baskets  
 25 out there and I decided to go get a basket and lean up

Page 22

1 on it and go in the store.  
 2 I was weak and dizzy, and I saw a policeman way  
 3 over there, and I start to blow my horn for him to come,  
 4 but I had some groceries in the car and I didn't want to  
 5 leave it because I knew he was going to call the  
 6 paramedic. So I tried to make it home.  
 7 When I got home, I couldn't take anything out  
 8 of the car. My husband is kind of sick, and he had come  
 9 taken everything out of the car. I just went right to  
 10 bed, and I slept the whole evening.  
 11 Q When did this episode occur?  
 12 A It occur before -- a little before they recalled  
 13 the Digitek.  
 14 Q When you say a little bit before they recalled  
 15 the Digitek, do you remember what month this episode  
 16 occurred?  
 17 A Sometime in March. In March.  
 18 Q March of 2008?  
 19 A Yes.  
 20 Q Were there any other episodes that you  
 21 experienced?  
 22 A Well, one other place I went to and I was like  
 23 forgetting. I was forgetting -- I have to think, you  
 24 know, what I wanted to say because I was forgetting.  
 25 Q And when did you experience this episode of

Page 23

1 forgetting in relation to the other episode you just  
 2 talked about?  
 3 A All of that was coming up to the time they  
 4 recalled the Digitek.  
 5 Q So the time you were forgetting things, was that  
 6 after you experienced --  
 7 A Before and after.  
 8 Q -- the dizziness?  
 9 A Before and after.  
 10 Q How long before did you start forgetting?  
 11 A I can't recall.  
 12 Q When you experienced this episode we talked  
 13 about where you said you were weak and dizzy, did you  
 14 tell anybody about it?  
 15 A Yes.  
 16 Q Who did you tell?  
 17 A My husband, my children. And then when I went  
 18 to the doctor, I told him about it, too.  
 19 Q When did you go to the doctor after experiencing  
 20 this episode of weakness and dizziness?  
 21 A About six days after the recall of the  
 22 medication.  
 23 Q I thought you indicated that you experienced  
 24 this episode of weakness and dizziness -- Was it March  
 25 of 2008?

Page 24

1 A Yes.  
 2 Q Do you recall what month you went to go see your  
 3 doctor about this episode of weakness and dizziness?  
 4 A In April.  
 5 Q So was it about a month later?  
 6 MR. MALKINSON: If you recall. Just don't guess.  
 7 THE WITNESS: Okay. I can't recall the date.  
 8 MR. SIMON: Q What is your recollection as to how  
 9 long after this episode of weakness and dizziness that  
 10 you saw your doctor?  
 11 A I can't recall.  
 12 MR. MALKINSON: I'd just object. She said she  
 13 couldn't recall.  
 14 MR. SIMON: Q Did you call your doctor immediately  
 15 after experiencing this episode of weakness and  
 16 dizziness?  
 17 A No. I had an appointment coming up, so I didn't  
 18 call him. I just waited until the appointment.  
 19 Q How frequently do you see your doctor?  
 20 A After that, he kept having me coming in taking  
 21 tests and things a lot of different times, but I can't  
 22 recall the dates.  
 23 Q What about before this? I mean, how frequently  
 24 would you usually see your doctor?  
 25 A Two to three months.

6 (Pages 21 to 24)

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Willie Mae Wilburn

Page 25

1 Q And why would you see your doctor every two to  
2 three months, for what reasons?

3 A Checking. He was checking my -- Because that's  
4 when I start having a digoxin problem.

5 Q When did you start having the digoxin problem?

6 MR. MALKINSON: I'll object because it calls for a  
7 medical opinion. You can answer.

8 THE WITNESS: Mostly in February, March. February  
9 is when he cut my digoxin down to every other day.

10 MR. SIMON: Q And the doctor we're referring to,  
11 is that Dr. Patel?

12 A Yes.

13 Q And when did he cut your dosage of digoxin to  
14 every other day?

15 A Start like February.

16 Q And do you recall what dosage you were taking at  
17 the time?

18 A What dose I was --

19 Q Yes. What was the dose you were taking of  
20 digoxin, or Digitek?

21 A I don't want to be incorrect, but .125. It  
22 should be in here.

23 Q Did you always take the same dosage?

24 A Yes.

25 Q When you had this episode of weakness and

Page 26

1 dizziness before you went into the pharmacy, did you  
2 tell the pharmacist about it?

3 A No, I didn't.

4 Q When you got home, what did you tell your  
5 husband?

6 A I told him I was weak and kind of blurry and  
7 just felt bad, and I couldn't do anything but just go  
8 and get in bed.

9 Q Did anyone suggest that you contact a doctor or  
10 go to the hospital?

11 A No.

12 Q Did you ever consider contacting your doctor or  
13 going to the hospital?

14 A No, I thought I'd feel better after I lie down.

15 Q And how did you feel after you laid down and  
16 rested?

17 A A little bit better than I did before I lied  
18 down.

19 Q Has anyone ever told you that you have medical  
20 problems as a result of using Digitek?

21 A No, no more than the same medical problem I go  
22 to the doctor for.

23 Q So you continue to see your doctor for the same  
24 medical problems you saw him before you used Digitek and  
25 after you used Digitek?

Page 27

1 A I had to see him more coming up to Digitek --

2 Coming up to when I started feeling the Digitek thing I  
3 had to see him more, and right after, until he changed  
4 my medicine, and then I started feeling better.

5 Q When did you start seeing your doctor more  
6 because of your Digitek?

7 A March. Like March.

8 Q And how many more times did you have to see him  
9 because of your use of Digitek?

10 A Like every two weeks or something he had me  
11 coming in.

12 Q And why did your doctor want to see you every  
13 two weeks?

14 MR. MALKINSON: I'll object to the extent it calls  
15 for speculation. She can't read his mind.

16 MR. SIMON: Q What was your understanding as to  
17 why your doctor wanted to see you every two weeks?

18 A To take the blood tests and things.

19 Q And what sort of blood tests were you having?

20 A Digitek blood tests.

21 Q And how frequently were you having those tests  
22 done?

23 A Probably every two weeks or something.

24 Q What did Dr. Patel tell you about the tests he  
25 was giving you?

Page 28

1 A Sometimes he say that I had a palpitation  
2 from -- you know, I was having palpitations then and  
3 fibrillations. So he just start running tests, did a  
4 lot of different tests.

5 Q And what tests did he run because you had  
6 palpitations and atrial fibrillation?

7 A I had to take the CAT scan, electrocardiogram,  
8 on the treadmill, and EKG.

9 Q What did those tests show?

10 MR. MALKINSON: Object to the extent it calls for a  
11 medical opinion. You can answer, if you know, as best  
12 you know.

13 THE WITNESS: He didn't never tell me about most of  
14 them. All he be saying, you know, is that I have  
15 fibrillation and palpitation.

16 MR. SIMON: Q Did he discuss the test results with  
17 you?

18 A No.

19 Q Do you have an understanding as to what those  
20 tests showed?

21 A No.

22 Q Now, you indicated you had palpitations and  
23 atrial fibrillation. When did you first start having  
24 palpitations and atrial fibrillation?

25 A I think February or March.

7 (Pages 25 to 28)



Willie Mae Wilburn

Page 29

1 Q Did you have palpitations -- Strike that.  
 2 Had you experienced palpitations before  
 3 February or March of 2008?  
 4 A In 1995, but he gave me medication and like it  
 5 all went away. I didn't feel nothing until coming up.  
 6 MR. MALKINSON: You mean 2005?  
 7 THE WITNESS: 2005. 2005, I'm sorry.  
 8 MR. SIMON: Q Tell me what happened in 2005 that  
 9 caused you to go to the doctor with what I'm going to  
 10 call complaints of palpitations.  
 11 A Well, I just knew when I went and he said I had  
 12 a gastro problem.  
 13 Q I'm sorry, I didn't hear that.  
 14 A A gastro problem. That's what they told me  
 15 then, and that's when I had palpitations.  
 16 Q Were you seeing Dr. Patel in 1995?  
 17 MR. MALKINSON: 2005.  
 18 THE WITNESS: 2005, yes.  
 19 MR. MALKINSON: That's okay.  
 20 MR. SIMON: I'm sorry.  
 21 THE WITNESS: 2005, yes.  
 22 MR. SIMON: Q How long has Dr. Patel been your  
 23 doctor?  
 24 A 1999.  
 25 Q In 2005, when you were experiencing

Page 30

1 palpitations, did Dr. Patel think that was caused by a  
 2 gastrointestinal problem?  
 3 MR. MALKINSON: I'm going to object again to what  
 4 Dr. Patel -- asking her what Dr. Patel thought, as she  
 5 has no foundation to tell you what he's thinking.  
 6 MR. SIMON: John, I've been pretty indulgent so far,  
 7 but under PTO 16 and 22 there are to be no speaking  
 8 objections in these depositions. So I'd appreciate you  
 9 abiding by that.  
 10 MR. MALKINSON: Object to the form and object  
 11 because it calls for speculation.  
 12 MR. SIMON: Q We were talking about when you first  
 13 started experiencing palpitations. And you indicated  
 14 that was in 2005?  
 15 A Yes.  
 16 Q Did you ever discuss the cause of your  
 17 palpitations with your doctor?  
 18 A No, because I never had experienced it, so.  
 19 Q Tell me what you experienced. Describe for me  
 20 what you're calling a palpitation.  
 21 A When your heart beat rapid.  
 22 Q So when you're describing a palpitation, you  
 23 mean a rapid heartbeat?  
 24 A At that time, yes.  
 25 Q How many episodes of heart palpitations did you

Page 31

1 experience in 2005?  
 2 A Not that many after because he put me on that  
 3 medication and it went away, like it went away. I could  
 4 do everything I want to do and never feel it until the  
 5 digoxin come up.  
 6 Q What medication did Dr. Patel put you on for  
 7 your heart palpitations?  
 8 A Digoxin.  
 9 Q And what is your understanding of the purpose of  
 10 digoxin?  
 11 A It's supposed to help your heart, help with the  
 12 palpitation.  
 13 Q Did you experience any palpitations after going  
 14 on digoxin in 2005?  
 15 A No, it got better after, after I got on  
 16 medication. After I come out of the hospital and got on  
 17 medication I think I was fine. I could do anything I  
 18 wanted to.  
 19 Q So you were hospitalized in 2005 when you were  
 20 experiencing these palpitations?  
 21 A I went in for gastro, and that's when they found --  
 22 I had the palpitation then.  
 23 Q You said your palpitations got better --  
 24 A Yes.  
 25 Q -- once you went on digoxin in 2005.

Page 32

1 A Right.  
 2 Q Did they go away completely or did you  
 3 experience some palpitations periodically after that?  
 4 A I never did feel anything after that until 2008.  
 5 MS. WEST: Can we take a three-minute break for just  
 6 a second?  
 7 MR. SIMON: Sure.  
 8 (Recess was taken.)  
 9 MR. SIMON: Q Can you return to page 7 of your  
 10 Plaintiff Fact Sheet again? We'll just get some  
 11 clarification.  
 12 Do you have page 7 there, Mrs. Wilburn?  
 13 A Yes.  
 14 MR. MALKINSON: Actually, you know, I'll tell you,  
 15 it is correct. It's correct, but it looks incorrect.  
 16 It was then that she changed to Lanoxin, okay, but the  
 17 every-other-day change of the Digitek happened at an  
 18 earlier time.  
 19 MR. SIMON: Q We'll just continue on. Has anyone  
 20 ever told you that you have medical problems or  
 21 conditions because you used Digitek?  
 22 A I haven't spoken to anyone, but I talked to my  
 23 doctor, and that's it.  
 24 Q And did your doctor tell you that you had  
 25 medical problems or conditions as a result of your use

8 (Pages 29 to 32)

Willie Mae Wilburn

Page 33

1 of Digitek?  
 2 A No. He knew what was going on, you know. He  
 3 knew that --  
 4 MR. MALKINSON: You've answered his question.  
 5 THE WITNESS: Okay.  
 6 MR. SIMON: Q Have you kept information that came  
 7 with your prescriptions from the pharmacy?  
 8 A No.  
 9 Q Earlier in the deposition we were talking about  
 10 papers or pamphlets that came with your prescriptions  
 11 from the pharmacy. Do you remember that?  
 12 A Yes.  
 13 Q You didn't keep any of that information?  
 14 A No.  
 15 Q Do you have any materials that any of your  
 16 doctors gave you with any information about Digitek or  
 17 digoxin?  
 18 A No.  
 19 MR. MALKINSON: I'll object to the extent that it  
 20 assumes facts not in evidence, that she was ever given  
 21 anything.  
 22 MR. SIMON: Q Do you have the actual packaging  
 23 from any of your Digitek prescriptions?  
 24 A Actually packages?  
 25 Q Do you have any -- Or did you have any? Strike

Page 34

1 that.  
 2 Do you have any of the prescription vials, for  
 3 instance, for Digitek?  
 4 MR. MALKINSON: We have the one I brought.  
 5 THE WITNESS: Yes.  
 6 MR. SIMON: Q Other than the one that your  
 7 attorney brought today, do you have any other vials,  
 8 bottles or any sort of packaging --  
 9 A I have the new bottle, the new.  
 10 Q For the purposes of the court reporter, if you  
 11 can just wait until I complete my question --  
 12 A Okay. I'm sorry.  
 13 Q -- before you give your answer, because she  
 14 can't take down both of us talking at the same time, or  
 15 it's very difficult. Okay?  
 16 A Okay.  
 17 MR. SIMON: Can we take a look at the vial now?  
 18 MR. MALKINSON: Sure. It's an interesting effort by  
 19 the pharmacist.  
 20 MR. SIMON: Q Handing you a prescription bottle  
 21 with a fill date of 3-3-08, is this the one and only  
 22 prescription bottle for Digitek that you still have?  
 23 A Yes.  
 24 Q On the label of that the instructions say take  
 25 one-half tablet by mouth every day, and the one-half

Page 35

1 appears to be written over a white-out. Is that what  
 2 you see there also?  
 3 A This is the same --  
 4 MR. MALKINSON: We'll stipulate to that.  
 5 MR. SIMON: Q My question is, who put that  
 6 one-half on the vial or bottle?  
 7 A The pharmacy.  
 8 Q So when you picked up that prescription, the  
 9 vial was exactly as it appears in its present form?  
 10 MR. MALKINSON: No, this was changed when she  
 11 brought it back.  
 12 THE WITNESS: This was changed.  
 13 MR. MALKINSON: This is the bottle she brought back  
 14 with her after they told her to bring in your pills in  
 15 April because of the recall, and then they gave her a  
 16 .250 pill cut in half and they rewrote how to take that  
 17 by writing over the instructions that existed from March  
 18 3rd.  
 19 Originally, it's just all typed. It looks like  
 20 they wrote a 7. I presume that's the number of pills or  
 21 whatever they gave her. It looks like they wrote a new  
 22 manufacturer, which you might recognize what that is. I  
 23 didn't know.  
 24 MR. SIMON: Q Okay. So when you returned some of  
 25 your Digitek tablets to the pharmacy, it was in this

Page 36

1 actual prescription bottle?  
 2 A Yes.  
 3 Q You handed the prescription bottle to the  
 4 pharmacist, correct?  
 5 A Yes.  
 6 Q And then he replaced the tablets that were in  
 7 there with new tablets?  
 8 A Yes.  
 9 MR. MALKINSON: I'll just object on foundation  
 10 because I think before she said it was a she, not a he.  
 11 THE WITNESS: Yes, a she.  
 12 MR. SIMON: Q And were those the tablets that were  
 13 cut in half for you?  
 14 A They put them in the bottle. She had taken the  
 15 old ones, kept them, and put them new ones in there, the  
 16 one she cut in half.  
 17 Q Were the tablets that she replaced in this  
 18 bottle cut in half?  
 19 A Yes.  
 20 Q Did you count how many pills are in that vial?  
 21 MR. MALKINSON: I counted them. I don't know if she  
 22 did.  
 23 MR. SIMON: Q I'll ask her if she did. Did you?  
 24 A No.  
 25 Q Did you look at the pills that were in that vial

9 (Pages 33 to 36)

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Willie Mae Wilburn

Page 37

1 before you returned them to the pharmacy?  
 2 MR. MALKINSON: Oh, I thought you meant --  
 3 THE WITNESS: I had been taking them coming up to  
 4 when they told me to don't take any more.  
 5 MR. SIMON: Q The tablets that are in here, are  
 6 these the new ones you received from the pharmacist  
 7 after you returned whatever you had to her?  
 8 A No, them are the ones I kept, and the ones she  
 9 gave me was cut in half.  
 10 MR. MALKINSON: There's one sample of that in there.  
 11 MR. SIMON: Q So the pills in this vial are all  
 12 the ones that you have?  
 13 A I gave them some and I kept a few for myself.  
 14 So that's them.  
 15 Q What did you do with the ones you kept for  
 16 yourself?  
 17 A They're in the bottle.  
 18 Q So after you got home from the pharmacy at some  
 19 point you put them back in this bottle?  
 20 A No, I had them in something else, so I just gave  
 21 my lawyer the bottle.  
 22 Q But now they -- this contains both the old  
 23 tablets and the new tablets you received?  
 24 A Just one in there, one-half in there.  
 25 Q So there is --

Page 38

1 A Because I had taken all of it up.  
 2 Q So there's only one-half of a tablet of the new  
 3 tablets?  
 4 A Yes.  
 5 Q And the rest of the tablets in there are all the  
 6 old tablets you had?  
 7 A Right.  
 8 Q Remember to wait until I complete my question  
 9 before you answer. You're doing fine.  
 10 When you were taking the Digitek tablets, did  
 11 they all look the same to you?  
 12 A I can't recall because I didn't notice where  
 13 they make them at. I didn't notice them. I just  
 14 thought they was all good.  
 15 Q After you were notified of the recall did you  
 16 examine the tablets?  
 17 A I kind of looked at them, but I didn't take  
 18 any more.  
 19 Q And did they all look the same to you when you  
 20 looked at them?  
 21 A I didn't notice that either.  
 22 Q I'm sorry?  
 23 A I couldn't tell.  
 24 Q You didn't notice any difference?  
 25 A I couldn't tell.

Page 39

1 Q You couldn't tell if there was any difference  
 2 among the tablets that were left?  
 3 A I just slightly looked at them.  
 4 Q And from what you could tell, did they all look  
 5 the same?  
 6 A Normally did.  
 7 Q Did you weigh the tablets at any time?  
 8 A No.  
 9 Q Do you know if anyone else weighed them?  
 10 A No.  
 11 Q Have you ever kept a note or diary regarding the  
 12 health problems you believe were caused by your use of  
 13 Digitek?  
 14 A No.  
 15 Q Do you ever keep notes or diaries that includes  
 16 information about doctors' appointments?  
 17 A No.  
 18 Q Do you use a computer at all?  
 19 A No.  
 20 Q Have you ever done any research about Digitek?  
 21 A No.  
 22 Q Do you know what a website is?  
 23 A Yes.  
 24 Q Have you ever visited any websites about health  
 25 issues or Digitek?

Page 40

1 A No.  
 2 Q Has anyone ever done any research for you about  
 3 Digitek?  
 4 A My daughter, she just slightly looked at it.  
 5 Q And what did your daughter look at?  
 6 MR. MALKINSON: Objection, lack of foundation.  
 7 THE WITNESS: She looked at it when it says recall.  
 8 She just looked at the site and saw why it was recalled  
 9 on the site.  
 10 MR. SIMON: Q Do you know what site she visited?  
 11 A No.  
 12 Q What did she tell you about what she found out?  
 13 A She said she saw why it was recalled.  
 14 Q She said she saw that there was a recall?  
 15 A When the recall was. She just looked at it and  
 16 seen was it really a recall and the Digitek.  
 17 Q When did your daughter do this research on the  
 18 computer about the Digitek recall?  
 19 MR. MALKINSON: Objection, calls for speculation,  
 20 lack of foundation. If you know.  
 21 THE WITNESS: A couple days after.  
 22 MR. SIMON: Q Was it a couple days after the  
 23 pharmacist had already called you --  
 24 A Yes.  
 25 Q -- and let you know there was a recall?

10 (Pages 37 to 40)

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Page 41

1 A Yes.  
 2 Q Is there anything else you remember your  
 3 daughter telling you about the Digitek recall?  
 4 A No.  
 5 Q Is there a history of heart disease in your  
 6 family?  
 7 A In one person I know.  
 8 Q And who has heart disease in your family?  
 9 A That was my grandmother.  
 10 Q What was her heart problem?  
 11 A I can't recall because it was years and years  
 12 and years ago.  
 13 Q Well, you indicated she had heart disease.  
 14 A She did.  
 15 Q What were her symptoms? What did she  
 16 experience? What makes you say she had heart disease or  
 17 a heart problem?  
 18 A That's what I heard. I wasn't living with her  
 19 at the time. I wasn't even living in the state with  
 20 her.  
 21 Q Do you know how much you currently weigh?  
 22 A Now? 172.  
 23 Q And how tall are you?  
 24 A Five-five-and-a-half.  
 25 Q What's the most you've weighed in the last three

Page 42

1 years?  
 2 A 179 or 80.  
 3 Q And when did you weigh 179 or 180, what year?  
 4 A The beginning of 2008.  
 5 Q Has your doctor ever placed you on a diet?  
 6 A No.  
 7 Q Do you exercise?  
 8 A Yes.  
 9 Q What do you do for exercise?  
 10 A Exercise my legs and things.  
 11 Q What do you do --  
 12 A Shoulders.  
 13 Q What do you do, for instance, to exercise your  
 14 legs and shoulders?  
 15 A Do the exercise with shoulders and legs, just  
 16 walking with my legs. And with my arms, do the  
 17 rotation.  
 18 Q Do you walk on a regular basis, for instance,  
 19 three times a week, once a week? Is that the kind of  
 20 exercise you're talking about?  
 21 A Yes, not that far.  
 22 Q How far do you walk?  
 23 A Down the street a little piece and back.  
 24 Q And how many days a week do you do that?  
 25 A Twice.

Page 43

1 Q How long does it take you to walk that distance  
 2 twice a week?  
 3 A How long it take me to walk it?  
 4 Q Yes.  
 5 A Slowly.  
 6 MR. MALKINSON: No, he's saying what time span.  
 7 Like, are you walking for 20 minutes? Are you walking  
 8 for three hours? What?  
 9 THE WITNESS: No, probably about 25 minutes or so.  
 10 MR. SIMON: Q During your adult life has your  
 11 exercise tolerance or ability to walk changed in any  
 12 way?  
 13 A Yes.  
 14 Q How?  
 15 A It's changed because I have arthritis and so I  
 16 can't walk as much as I was before then.  
 17 Q Where do you have arthritis?  
 18 A In the knee.  
 19 Q Do your doctors suggest you walk with your  
 20 arthritis?  
 21 A Yes.  
 22 Q Does your doctor suggest that you walk because  
 23 of your heart problem?  
 24 A No.  
 25 MR. MALKINSON: I'd just object to the extent,

Page 44

1 again, that it calls for speculation as to her doctor's  
 2 reasons why.  
 3 MR. SIMON: Q Was there ever a time when you were  
 4 exercising that you had to stop because you weren't  
 5 feeling well?  
 6 A No.  
 7 Q Has any physician recommended exercise for your  
 8 health?  
 9 A No.  
 10 Q Do you work around your house?  
 11 A Yes.  
 12 Q What things do you do around the house?  
 13 A A lot of things. I do housework and cook. You  
 14 know, I work in the yard.  
 15 Q What type of housework do you do?  
 16 A Cleaning house.  
 17 Q Can you be more specific? Do you vacuum, for  
 18 instance?  
 19 A Yes, I vacuum some.  
 20 Q Do you wash the floors? Tell me what you do  
 21 when you clean.  
 22 A Yes, I run the mop over the floors a little bit  
 23 and wash dishes, and I cook.  
 24 Q Does anybody else come into your house to help  
 25 clean?

11 (Pages 41 to 44)

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Page 45

1 A No.  
 2 Q Does your husband help with the cleaning?  
 3 A No.  
 4 Q So all the cleaning that's done in your house,  
 5 you do it yourself?  
 6 A Just he and I do.  
 7 Q Since he doesn't do any cleaning, do you do all  
 8 the cleaning in your house?  
 9 A That has to be cleaned, yes.  
 10 Q You said you also work out in the yard. What  
 11 types of things do you do in the yard?  
 12 A During this time I plant plants.  
 13 Q Do you do any sweeping outside?  
 14 A No.  
 15 Q Who does your yard work?  
 16 A My son help.  
 17 Q What do you like to do as part of your leisure  
 18 time or recreation?  
 19 A I go visit.  
 20 Q Anything else?  
 21 A I have to go grocery shopping and things like  
 22 that.  
 23 Q Anything else?  
 24 A Go to church.  
 25 Q When you say to go visit, who do you go visit?

Page 46

1 A My children.  
 2 Q How close do they live to you?  
 3 A I don't know the mileage, but they live pretty  
 4 close.  
 5 Q How do you get there?  
 6 A I drive.  
 7 Q How long does it take you to drive to your  
 8 children's houses?  
 9 A About some of them 20 minutes or 25 minutes.  
 10 Q How many children do you have?  
 11 A Four.  
 12 Q Do they all live in the Chicago area?  
 13 A They live in the area, all except one. He's in  
 14 the service.  
 15 Q Have you had any illnesses or injuries that  
 16 required you to be hospitalized?  
 17 A No.  
 18 MR. MALKINSON: Timeframe? Ever you mean?  
 19 MR. SIMON: Q Let's start with ever, if she had  
 20 none. Have you ever been hospitalized?  
 21 A No more than arthritis.  
 22 MR. MALKINSON: You listed stuff in here like for  
 23 your gastro thing.  
 24 THE WITNESS: For my gastro.  
 25 MR. MALKINSON: Well, don't assume. He's asking you

Page 47

1 to tell him all of the times you've been hospitalized.  
 2 You've got a knee replacement and gastro intestine.  
 3 THE WITNESS: Yes.  
 4 MR. SIMON: Q Let's start over again. Have you  
 5 ever been in the hospital?  
 6 A Yes.  
 7 Q How many times?  
 8 A Twice.  
 9 MR. MALKINSON: Don't forget about when your babies  
 10 were born.  
 11 THE WITNESS: Oh, yes.  
 12 MR. MALKINSON: Have you ever been in the hospital?  
 13 You tell him every time. I don't care what it's for.  
 14 THE WITNESS: Okay. Six times, and I went to the  
 15 emergency room.  
 16 MR. SIMON: Q Other than the birth of your  
 17 children, why were you in the hospital on those other  
 18 occasions?  
 19 A I went in, had a knee replacement, and I went --  
 20 Q I'm sorry. When did you have your knee  
 21 replacement?  
 22 A 2005 I think.  
 23 MR. MALKINSON: Here.  
 24 THE WITNESS: 2001.  
 25 MR. SIMON: Q Do you remember how long you were in

Page 48

1 the hospital for your knee replacement?  
 2 A Three days.  
 3 Q Who was your doctor for your knee replacement?  
 4 A I was going to the same clinic where Dr. Patel  
 5 is. He recommended Dr. Cavalina.  
 6 Q Can you spell that doctor's name, or as close as  
 7 you can get?  
 8 A C-A-L-V -- I think it was C-A-L-V-L-E-R or  
 9 something like that.  
 10 MR. SIMON: Q Can you pronounce his name again?  
 11 A Cavalina.  
 12 Q Cavalina?  
 13 A Yes.  
 14 Q And what hospital did you have your knee  
 15 replacement done at?  
 16 A West Suburban.  
 17 Q So that's one of the hospitalizations. What was  
 18 the other hospitalization?  
 19 A I had that gastro, same hospital.  
 20 Q When you say you had that gastro, what problems  
 21 were you experiencing that led you to be hospitalized?  
 22 A I started vomiting a lot and kind of dizzy.  
 23 Q Were you taken to the hospital by ambulance?  
 24 A Yes.  
 25 Q Who was your doctor during that hospitalization

12 (Pages 45 to 48)

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Page 49

1 for your gastro problems?  
 2 A Dr. Nohi.  
 3 Q Can you spell that one for me?  
 4 A I don't know. I think it's N-O-H-I. I think it  
 5 was like that.  
 6 Q Can you pronounce it again?  
 7 A Nohi.  
 8 Q Nohi?  
 9 A Yes.  
 10 Q And what hospital were you taken to for the  
 11 gastro problem?  
 12 A West Suburban.  
 13 Q Do you recall how long you were in the hospital  
 14 that time?  
 15 A A couple days.  
 16 Q What did the doctors tell you your problem was  
 17 during that hospital stay?  
 18 A The doctor never did tell me because he would  
 19 come in with Dr. Patel, my doctor.  
 20 Q Did Dr. Patel ever tell you what your problem  
 21 was during or after that hospital stay?  
 22 A That's when he said I had a gastro problem and  
 23 that's when I had palpitations.  
 24 Q What is your understanding as to what your  
 25 gastro problem is?

Page 50

1 A I guess it's -- My understanding is there's  
 2 certain food or something you eat I guess that make -- I  
 3 know they told me to not eat, you know.  
 4 Q What foods are you told not to eat?  
 5 A Like greasy food and anything like that.  
 6 Q Did they place you on any medications for your  
 7 gastro problem?  
 8 A For a while. I can't recall that pill.  
 9 Q Did they place you on some type of pill?  
 10 A Yes, for a while.  
 11 Q Did that help?  
 12 A Yes.  
 13 Q Do you continue to take that pill or a different  
 14 pill?  
 15 A No, no, not anymore.  
 16 Q So you take any medications for your gastro  
 17 problem?  
 18 A No.  
 19 Q Do you continue to experience gastro problems  
 20 periodically?  
 21 A No.  
 22 Q Do you continue to watch your diet and what you  
 23 eat?  
 24 A I watch my diet.  
 25 Q What types of things do you avoid eating?

Page 51

1 A Well, I try not to eat too much greasy food or  
 2 anything like that.  
 3 Q Was it during that hospitalization for your  
 4 gastro problem that you first learned you had atrial  
 5 fibrillation?  
 6 A He didn't tell me fibrillation. He just said  
 7 palpitation. I just got the name of the fibrillation  
 8 after the digoxin started.  
 9 Q So was it during this hospitalization for your  
 10 gastro problem that you found out you had palpitations?  
 11 A Yes, then.  
 12 Q And what did your doctors tell you about your  
 13 heart palpitations?  
 14 A He just told me I had heart palpitations. He  
 15 put me on that digoxin medication.  
 16 Q You didn't find out that you had atrial  
 17 fibrillation until the time of the Digitek recall?  
 18 A Like in March, February or March. That's when  
 19 he told me.  
 20 Q How did you find out that you had atrial  
 21 fibrillation in February or March?  
 22 A My doctor told me.  
 23 Q And what did -- Was it Dr. Patel who told you  
 24 that?  
 25 A Yes.

Page 52

1 Q What did Dr. Patel tell you about atrial  
 2 fibrillation?  
 3 A He just told me I had some fibrillation and  
 4 palpitation.  
 5 Q Did he tell you anything else?  
 6 A No.  
 7 Q So we've talked about two hospitalizations, one  
 8 for the knee replacement and one for the gastro  
 9 problems. Were there any other times you were  
 10 hospitalized other than for the birth of your children?  
 11 A No, I went into the emergency room.  
 12 Q When did you go to the emergency room? First of  
 13 all, how many times did you go to the emergency room?  
 14 A Once.  
 15 Q When did you go into the emergency room?  
 16 A I can't recall the date now, but it was during  
 17 the time -- I recall it was after the recall of the  
 18 pill.  
 19 Q Okay. And why did you go to the emergency room  
 20 after the recall of the Digitek?  
 21 A Because that was on a Sunday and I called -- I  
 22 had to call the clinic, and it was closed, and so you  
 23 talk to a triage nurse. And they said it seemed like I  
 24 was getting short of breath when I was talking, and she  
 25 talked to a doctor and they told me to go into the

13 (Pages 49 to 52)

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Page 53

1 emergency room.  
 2 Q So you placed a telephone call to the clinic?  
 3 A Yes, emergency clinic.  
 4 Q Why did you call the emergency clinic?  
 5 A Because I was having the palpitation and things,  
 6 you know, and I wanted to know.  
 7 Q So you were experiencing a palpitation and you  
 8 called the clinic and spoke to a triage nurse?  
 9 A Yes.  
 10 Q What clinic did you call?  
 11 A Advocate.  
 12 Q I'm sorry?  
 13 A Advocate Clinic.  
 14 MR. MALKINSON: It's where Dr. Patel is.  
 15 MR. SIMON: Q So you basically called Dr. Patel's  
 16 office and you reached this triage nurse?  
 17 A Yes.  
 18 Q What did you tell her about your condition or  
 19 your symptoms?  
 20 MR. MALKINSON: Objection, asked and answered. You  
 21 can answer again.  
 22 THE WITNESS: I was telling her I felt weak and --  
 23 felt weak and my heart was beating kind of rapidly. And  
 24 then she told me it seemed like I was gasping for  
 25 breath.

Page 54

1 MR. SIMON: Q Did you feel that you were short of  
 2 breath?  
 3 A Yes.  
 4 Q Do you normally feel short of breath?  
 5 A No.  
 6 Q Do you sometimes experience shortness of breath?  
 7 A I get tired. I get tired. When I'm talking and  
 8 things, I get tired back then.  
 9 Q You get tired or tight?  
 10 A Tired.  
 11 Q I'm sorry, I don't know which one you're  
 12 referring to.  
 13 A I get tired and weak and nervous.  
 14 MR. MALKINSON: She's saying tired.  
 15 MR. SIMON: Q How did you get -- First of all, did  
 16 you follow the nurse's advice to go to the emergency  
 17 room?  
 18 A Yes. She talked to a doctor there, and the  
 19 doctor told her to tell me to go to the emergency room.  
 20 Q And did you do that?  
 21 A Yes.  
 22 Q What happened when you got to the emergency  
 23 room? Strike that.  
 24 Before we go there, how did you get to the  
 25 emergency room?

Page 55

1 A They sent an ambulance. They called an  
 2 ambulance for me.  
 3 Q And what happened in the emergency room?  
 4 A They checked me and -- with an EKG, and they  
 5 checked me and they took blood tests.  
 6 Q And what did they tell you about your condition  
 7 in the emergency room?  
 8 A They told me that it didn't seem like having  
 9 short of breath.  
 10 Q Did they tell you anything else?  
 11 A And they told me that I did have fibrillation.  
 12 Q Did they tell you anything else about your  
 13 condition?  
 14 MR. MALKINSON: If you recall.  
 15 THE WITNESS: I can't recall.  
 16 MR. SIMON: Q What treatment did they give you in  
 17 the emergency room?  
 18 A They didn't give me no treatment. They took the  
 19 EKG and took the blood test.  
 20 Q Did they tell you the results of the blood test?  
 21 A No, they sent a note to my doctor. They didn't  
 22 tell me.  
 23 Q Did they tell you that your -- First of all, did  
 24 they check your digoxin level in the emergency room?  
 25 MR. MALKINSON: If you know.

Page 56

1 THE WITNESS: I imagine so because they took the  
 2 blood test. I guess that was it.  
 3 MR. SIMON: Q Did they tell you the results?  
 4 A No.  
 5 Q Did you discuss the results with Dr. Patel at  
 6 any time?  
 7 A I can't recall.  
 8 Q What instructions did the emergency room give  
 9 you when you were discharged?  
 10 A They just told me that it seemed like I wasn't  
 11 having short of breath and I probably can go back home.  
 12 Q Did they tell you to follow up with your doctor?  
 13 A Yes.  
 14 Q And when did they suggest you follow up with  
 15 your doctor?  
 16 A As far as I recall, I think I went the next  
 17 week.  
 18 Q Is that what they suggested you do, you follow  
 19 up within a week?  
 20 A They didn't say a week. They just said follow  
 21 up with your doctor. So you've got to call and make an  
 22 appointment.  
 23 Q What happened after you saw Dr. Patel after the  
 24 emergency room visit?  
 25 A He just checked me over again, like checked my

14 (Pages 53 to 56)

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Willie Mae Wilburn

Page 57

1 heart and things.  
 2 Q What did Dr. Patel tell you about your  
 3 condition?  
 4 A He told me I still had some palpitation and  
 5 fibrillation, and I think he gave me -- sent me for  
 6 another test.  
 7 Q What test did Dr. Patel send you for?  
 8 A A blood test.  
 9 Q Do you know what the results of the blood tests  
 10 were?  
 11 A No, I can't recall.  
 12 Q Did you ever discuss the results of your blood  
 13 test with Dr. Patel?  
 14 A Sometime I did ask some of the time.  
 15 Q And what would you ask Dr. Patel about?  
 16 A I'll be asking how my heart doing.  
 17 Q And what does Dr. Patel tell you?  
 18 A A couple of times he told me it was like high  
 19 and one time it was low.  
 20 Q So Dr. Patel has told you that sometimes your  
 21 heart rate is high and sometimes your heart rate is low?  
 22 A Yes.  
 23 Q You indicated earlier that Dr. Patel sent you  
 24 for some tests after the Digitek recall.  
 25 A Yes.

Page 58

1 Q What tests did he send you for?  
 2 A He sent me over to West Suburban.  
 3 Q You had the tests done at West Suburban?  
 4 A Yes.  
 5 Q What tests did you have done?  
 6 A I had to have a CAT scan.  
 7 Q You had a CAT scan done?  
 8 A Yes, a CAT scan, and I had to have an exercise  
 9 machine.  
 10 MR. MALKINSON: A treadmill?  
 11 THE WITNESS: Yes, a treadmill.  
 12 MR. MALKINSON: A stress test?  
 13 THE WITNESS: A stress test, yes.  
 14 MR. SIMON: Q You had a CAT scan, a treadmill  
 15 stress test. Any other tests that Dr. Patel sent you  
 16 for after the Digitek recall?  
 17 A An EKG and an electrocardiogram.  
 18 MR. MALKINSON: Did you have a blood test?  
 19 THE WITNESS: Yes, all the blood tests.  
 20 MR. SIMON: Q You said you had a CAT scan. You  
 21 had a CAT scan of what?  
 22 A Of my heart.  
 23 Q And what were the results of the CAT scan of  
 24 your heart?  
 25 A They didn't tell me that at the hospital. They

Page 59

1 sends everything to Dr. Patel.  
 2 Q Okay.  
 3 A They tell me you'll find out by your doctor,  
 4 you'll find the results.  
 5 Q Did Dr. Patel discuss the results of your CAT  
 6 scan with you?  
 7 A He always says that, you know, I still had the  
 8 palpitations and fibrillation.  
 9 Q So you continue to have the palpitation and  
 10 fibrillation?  
 11 A Yes.  
 12 Q Did he tell you anything else about the CAT scan  
 13 other than you had palpitation and fibrillation?  
 14 A No, he didn't tell me anything.  
 15 Q You also indicated you had the stress test,  
 16 correct?  
 17 A Yes.  
 18 Q What did Dr. Patel tell you about the results of  
 19 the stress test?  
 20 A I can't recall the number of how high I went on  
 21 the stress test. I can't recall that number on that.  
 22 Q What did Dr. Patel tell you about the stress  
 23 test?  
 24 A I don't think he discussed it.  
 25 Q You indicated you also had an electrocardiogram

Page 60

1 done?  
 2 A Yes.  
 3 Q What did Dr. Patel tell you about the results of  
 4 the electrocardiogram?  
 5 A That I still had the fibrillation when I had  
 6 that cardiogram.  
 7 Q In the past, before you discontinued use of  
 8 Digitek, did Dr. Patel periodically send you for  
 9 electrocardiograms?  
 10 A The other times?  
 11 Q Yes.  
 12 A No.  
 13 Q This was the first --  
 14 A This is the first one.  
 15 Q This was the first electrocardiogram that Dr.  
 16 Patel sent you for?  
 17 A Yes.  
 18 Q Did you have an electrocardiogram when you were  
 19 hospitalized back in 2005?  
 20 A No.  
 21 Q So as far as you know, the first time you had an  
 22 electrocardiogram done was in 2008?  
 23 A Yes.  
 24 Q You indicated that Dr. Patel also sent you for  
 25 blood tests, correct?

15 (Pages 57 to 60)

Willie Mae Wilburn

Page 61

1 A Yes.  
 2 Q Do you know what specifically they tested for in  
 3 those blood tests?  
 4 A They were testing for my heart, digoxin.  
 5 Q Did Dr. Patel discuss with you what your digoxin  
 6 levels were based --  
 7 A He was telling me. Sometime when I take the  
 8 blood test it was low, sometimes it was high.  
 9 Q So you periodically over the years had your  
 10 blood tests done to check your digoxin levels?  
 11 A No, not until 2008.  
 12 Q So the first time you ever -- As far as you  
 13 know, the first time you've had your digoxin levels  
 14 tested via blood test was in 2008?  
 15 A Yes.  
 16 Q Have you ever been seen by a cardiologist?  
 17 A No.  
 18 Q Other than Dr. Patel, do you see any other  
 19 doctors?  
 20 A Just -- No.  
 21 Q Is Dr. Patel the only doctor you see?  
 22 A Yes. I saw a knee doctor.  
 23 Q Do you continue to see your knee doctor  
 24 periodically?  
 25 A No.

Page 62

1 Q When was the last time you saw your knee doctor?  
 2 A Probably about three years ago.  
 3 Q Have you ever been seen by a psychologist or a  
 4 psychiatrist?  
 5 A No.  
 6 Q Where do you have all of your prescriptions  
 7 filled?  
 8 A Osco Drug Store.  
 9 Q Is there a particular location that you have  
 10 your prescriptions filled at?  
 11 A Yes.  
 12 Q Where is that location that you fill your  
 13 prescriptions?  
 14 A Riverside. North Riverside.  
 15 Q Is that a street?  
 16 A No, the street is on Cermak Road. I need my  
 17 glasses to see the address.  
 18 Q And how long have you had your prescriptions  
 19 filled at Osco?  
 20 A 1999.  
 21 MR. MALKINSON: The pill bottle says 24th Street.  
 22 THE WITNESS: 24th Street? Oh, okay. 24th Street.  
 23 MR. SIMON: Q What medications do you currently  
 24 take?  
 25 A I take high blood pressure medication and

Page 63

1 cholesterol and Coumadin.  
 2 MR. MALKINSON: Digoxin.  
 3 THE WITNESS: Digoxin.  
 4 MR. SIMON: Q What high blood pressure medication  
 5 do you take?  
 6 A Verapamil.  
 7 Q How long have you been taking Verapamil?  
 8 A Since I came out of the hospital in 2000 --  
 9 Well, for that gastro problem.  
 10 MR. MALKINSON: 2005 is the gastro.  
 11 THE WITNESS: 2005. I'm mixing up my dates.  
 12 MR. SIMON: Q You indicated you also take a  
 13 medication for high cholesterol?  
 14 A Yes.  
 15 Q What medication do you take for cholesterol?  
 16 A Liperol.  
 17 Q Lisinopril?  
 18 MR. MALKINSON: I think it's Lipitor.  
 19 THE WITNESS: Lipitor. Oh, yes, Lisinopril. That's  
 20 for high blood pressure.  
 21 MR. SIMON: Q Do you take more than one medication  
 22 for high blood pressure or just one?  
 23 A Two, Verapamil and Lisinopril.  
 24 Q So you take Verapamil and Lisinopril for your  
 25 high blood pressure?

Page 64

1 A Yes.  
 2 Q And you continue to take that?  
 3 A Yes.  
 4 Q What do you take for your high cholesterol?  
 5 A Liperol.  
 6 Q I'm sorry?  
 7 A L-I-S-P --  
 8 MR. MALKINSON: It's Lisinopril. I don't know if --  
 9 That's the only thing that sounds like what she's saying  
 10 that's on her pharmacy record.  
 11 MR. SIMON: Q You also continue to take digoxin?  
 12 A I don't take digoxin now. I take -- I take the  
 13 new one that he gave me.  
 14 MR. MALKINSON: It's digoxin. It's not Digitek.  
 15 THE WITNESS: Oh, yes.  
 16 MR. SIMON: Q So you continue to take digoxin up  
 17 until today?  
 18 A Yes.  
 19 Q You also indicated you take Coumadin; is that  
 20 correct?  
 21 A Yes.  
 22 Q Why do you take Coumadin?  
 23 A I take -- I started taking Coumadin because when  
 24 I had my knee surgery, they wanted to get no blood clot.  
 25 Q Do you continue to take Coumadin?

16 (Pages 61 to 64)

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Page 65

1 A I take it.  
 2 Q How frequently do you take Coumadin?  
 3 A I take it every day, 5 milligram.  
 4 Q And what is your understanding as to why you  
 5 continue to take Coumadin?  
 6 A Well, he said so I keep the blood clot, keep  
 7 blood clots.  
 8 Q Who told you that?  
 9 A Dr. Patel. Blood clot.  
 10 Q Did Dr. Patel tell you to take Coumadin for your  
 11 heart condition?  
 12 A For that and for my knee, when I had it done.  
 13 Q So you started taking it when you had your knee  
 14 replacement done, correct?  
 15 A Yes.  
 16 Q And Dr. Patel keeps you on it for your heart  
 17 problem, correct?  
 18 A Yes.  
 19 MR. MALKINSON: If you know. I'm objecting to lack  
 20 of foundation.  
 21 MR. SIMON: Q Have you ever taken any medication  
 22 for anxiety?  
 23 A No.  
 24 Q Have you ever taken any medication for stress?  
 25 A No.

Page 66

1 Q Have you ever taken any medication for  
 2 depression?  
 3 A No.  
 4 Q Every time you receive a prescription from the  
 5 doctor, does he tell you how to take the drug?  
 6 A He have it on the prescription, how you take it.  
 7 Q So the times you take it per day, for instance?  
 8 A Yes, it's on the prescription bottle.  
 9 Q So it's on the prescription bottle when you have  
 10 it filled?  
 11 A Yes.  
 12 Q Does the doctor tell you the benefits of taking  
 13 a prescription when he initially prescribes it for you?  
 14 A He have told me, you know.  
 15 Q Does Dr. Patel discuss with you the risk or side  
 16 effects of the medications he prescribes for you?  
 17 A No.  
 18 Q So Dr. Patel doesn't tell you about the side  
 19 effects or risks to look out for on your medications?  
 20 A No.  
 21 Q He's never done that?  
 22 MR. MALKINSON: Objection, asked and answered twice  
 23 already.  
 24 MR. SIMON: Q How long have you been seeing Dr.  
 25 Patel again? I think you told me, but I forgot.

Page 67

1 A 1999.  
 2 Q Who was your doctor before Dr. Patel?  
 3 A Dr. Thomas.  
 4 Q What kind of doctor was Dr. Thomas?  
 5 A He was just a regular medical, general.  
 6 Q Other than Digitek or digoxin, have you been on  
 7 any other medications to control your heart rate or  
 8 rhythm?  
 9 A No.  
 10 MR. MALKINSON: Objection. Objection, lack of  
 11 foundation.  
 12 MR. SIMON: Q Before you started using Digitek,  
 13 did you know anybody else who was on it?  
 14 A No.  
 15 Q After you started using Digitek, or digoxin, did  
 16 you talk to anyone else who used it?  
 17 A No.  
 18 Q Was it Dr. Patel who originally prescribed  
 19 Digitek for you?  
 20 A Yes.  
 21 Q What did he tell you about Digitek when he first  
 22 gave it to you?  
 23 A When I first had the heart palpitation, that's  
 24 what he gave it to me for.  
 25 Q Did he tell you what the Digitek was supposed to

Page 68

1 do?  
 2 A Stop the heart palpitations.  
 3 Q Did Dr. Patel discuss with you the side effects  
 4 that Digitek might have?  
 5 MR. MALKINSON: Objection, asked and answered.  
 6 THE WITNESS: No, he --  
 7 MR. MALKINSON: You've answered the question.  
 8 MR. SIMON: Q Did Dr. Patel explain to you that  
 9 you would have to have your blood levels monitored while  
 10 being on Digitek, or digoxin, periodically?  
 11 A No.  
 12 Q Now, since you've been on Coumadin, you have to  
 13 have your blood levels monitored periodically for that  
 14 medication, correct?  
 15 A Yes.  
 16 Q And how frequently do you have your blood levels  
 17 monitored for Coumadin or -- Strike that. Once a month.  
 18 And how long has that been the case where  
 19 you've gone once a month to have your blood levels  
 20 monitored for Coumadin?  
 21 A Since I've been on it.  
 22 Q Do you know if on occasion they monitored your  
 23 digoxin, or Digitek, levels when they did blood tests?  
 24 MR. MALKINSON: If you know.  
 25 THE WITNESS: No.

17 (Pages 65 to 68)

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Page 69

1 MR. SIMON: Q You don't know one way or another?  
 2 A No.  
 3 Q It was not your understanding that Digitek, or  
 4 digoxin, was a medication that required close  
 5 monitoring?  
 6 A No.  
 7 Q When you received the Digitek prescriptions, did  
 8 you read the information that came with the  
 9 prescriptions?  
 10 A Slightly, not much.  
 11 Q What do you remember about what you read about  
 12 Digitek, or digoxin?  
 13 A I can't recall. It's been a long time.  
 14 Q You did read it though?  
 15 A Slightly.  
 16 Q Did you understand from your reading or from any  
 17 other source that when you took digoxin, or Digitek,  
 18 that you should call your doctor if you experienced a  
 19 rapid heartbeat, palpitations, confusion or weakness?  
 20 A Excuse me. Could you repeat that?  
 21 Q Was it your understanding that when you took  
 22 digoxin, or Digitek, if you experienced a rapid  
 23 heartbeat, palpitations, confusion or weakness, you  
 24 should call your doctor?  
 25 A The only time is like February or March when I

Page 70

1 begin to feel it.  
 2 Q In February or March did you call your doctor?  
 3 A I was going to him on an appointment, you know,  
 4 my regular appointment.  
 5 Q So you didn't call him --  
 6 A No.  
 7 Q -- but you had a regular appointment in February  
 8 or March?  
 9 A Yes.  
 10 Q What did you tell him about your condition when  
 11 you had your appointment in February or March of 2008?  
 12 MR. MALKINSON: Objection, asked and answered.  
 13 THE WITNESS: He was checking me himself, checking  
 14 my heart.  
 15 MR. SIMON: Q Did you --  
 16 A He was telling me.  
 17 Q Did you tell him you had any symptoms or  
 18 complaints about your heart?  
 19 A I told him I couldn't sleep or something like  
 20 that during that time, kind of nervous.  
 21 Q Did you tell him about any symptoms of  
 22 palpitations during that time period?  
 23 A I told him that my heart sometimes was beating  
 24 kind of rapid.  
 25 Q Did you tell him anything else you were

Page 71

1 experiencing in that timeframe?  
 2 A Back in February and March is when I started  
 3 having some experience. Then I started getting dizzy  
 4 and little headaches and weakness.  
 5 Q Did you tell Dr. Patel you were experiencing --  
 6 A I told him.  
 7 Q -- dizziness in February or March of 2008?  
 8 A Yes.  
 9 Q Did you tell Dr. Patel that you were  
 10 experiencing weakness in February or March of 2008?  
 11 A Yes.  
 12 Q Did you tell Dr. Patel that you were  
 13 experiencing nausea or vomiting in March -- February or  
 14 March of 2008?  
 15 A I wasn't vomiting in 2008.  
 16 Q What about nausea? Did you tell Dr. Patel that  
 17 you were experiencing nausea during February or March of  
 18 2008?  
 19 A Yes.  
 20 Q Did Dr. Patel ever tell you that if you were  
 21 experiencing certain symptoms, you should contact him or  
 22 his office?  
 23 A No, he just cut my pills down. Told me don't  
 24 take every other day -- try taking the pills every other  
 25 day.

Page 72

1 Q And what happened after you started taking --  
 2 First of all, when did you start taking the pills every  
 3 other day?  
 4 A February.  
 5 Q What happened after you started taking the pills  
 6 every other day?  
 7 A I still had some of those symptoms.  
 8 Q What symptoms did you continue to have?  
 9 A Weakness and -- dizziness and weakness and  
 10 slight headaches.  
 11 Q And you told Dr. Patel about all those symptoms?  
 12 A Yes.  
 13 Q How did you pay for your Digitek, or digoxin?  
 14 A Copayment.  
 15 Q And how much was your copayment?  
 16 A \$5 I think, but I had bought -- I had to have  
 17 them refilled. And then when they were recalled, then I  
 18 had to get some more, and I had to pay -- I had to pay  
 19 some more because I stopped taking the ones -- the first  
 20 ones he gave me, the old ones. The original one he was  
 21 giving me, I had paid a copayment for that one. Then he  
 22 prescribed some more, and then I had to pay more copy  
 23 to get the new ones.  
 24 Q How many additional copayments did you have to  
 25 make for your digoxin prescriptions because of the

18 (Pages 69 to 72)

Willie Mae Wilburn

Page 73

1 recall?

2 MR. MALKINSON: I'm just going to interject one

3 objection on the collateral source rule, but you can

4 answer the question.

5 THE WITNESS: Well, I get them every month.

6 MR. SIMON: Q Okay. Well, you said you had to

7 make additional copayments because you needed to replace

8 the Digitek tablets.

9 A Yes.

10 MR. MALKINSON: He's asking how many you recall --

11 MR. SIMON: Q How many copayments you had to make?

12 A Two.

13 Q Two \$5 copayments?

14 A Yes.

15 Q How many tablets did you have left of the

16 recalled Digitek when you found out about it?

17 A When I had -- I had quite a few of them left

18 because I had started taking them every other day, so

19 that made me had extra ones that I didn't take because I

20 had started taking them every other day.

21 Q Do you know how many you had left? Did you ever

22 count them?

23 A I didn't count them.

24 Q Whatever happened to those tablets you returned

25 to the pharmacy?

Page 74

1 MR. MALKINSON: That's what we'd like to know.

2 THE WITNESS: Me, too. They didn't tell me anything

3 was wrong with them or -- They had just taken them.

4 MR. SIMON: Q Tell me what you did with those

5 tablets. Did you physically hand them to the pharmacist

6 and -- in the vial, in the bottle?

7 A Yes.

8 Q And you don't know what happened to them after

9 you gave them to the pharmacist?

10 A The pharmacist say they need them to check them

11 because some of them supposed to have been -- are larger

12 than the other ones.

13 Q But you have no knowledge as to what the

14 pharmacist did with them once you gave them to her?

15 A They didn't tell me anything.

16 Q What was your experience using Digitek, or

17 digoxin, before 2008, before February or March of 2008?

18 A It was good. I couldn't tell the difference. I

19 mean, I couldn't tell the difference about my heart.

20 Q You took the Digitek to treat your heart

21 palpitations; is that correct?

22 A Yes.

23 MR. MALKINSON: Lack of foundation.

24 MR. SIMON: Q Did taking the Digitek, or digoxin,

25 reduce your heart palpitations and heart rhythm

Page 75

1 abnormality?

2 MR. MALKINSON: Objection to the lack of timeframe

3 in your question. She's already -- she's already

4 testified that she had palpitations during the time she

5 was taking it. I object to the form of the question,

6 overly vague.

7 MR. SIMON: Q Did the -- did taking the Digitek

8 reduce the amount of palpitations you experienced?

9 MR. MALKINSON: Same objection.

10 MR. SIMON: Q You can answer.

11 A Are you talking about when I first started

12 taking them?

13 Q Yes.

14 A When I first started taking them, they reduced

15 it, and I didn't feel anything no more until 2008.

16 Q And when in 2008 did you start experiencing

17 palpitations again?

18 MR. MALKINSON: Objection, asked and answered

19 probably three times already.

20 MR. SIMON: Q You can answer.

21 A Like February, March.

22 Q Did you seek reimbursement from anyone for your

23 unused Digitek tablets?

24 A No.

25 Q Were you aware of some way to recover

Page 76

1 replacement -- Well, strike that.

2 Were you aware of a way to obtain replacement

3 tablets for your Digitek?

4 A The doctor replaced them for me.

5 Q Were you aware that there was a way that you

6 could have obtained replacement digoxin tablets for your

7 unused Digitek tablets?

8 A No.

9 Q Have any of your doctors ever thought you may

10 have kidney disease?

11 A No.

12 MR. MALKINSON: Objection, lack of foundation as to

13 what her doctors were thinking.

14 MR. SIMON: I asked her what --

15 MR. MALKINSON: You asked her if any of her

16 doctors --

17 MR. SIMON: Told her.

18 MR. MALKINSON: I don't think you said told her.

19 You said thought.

20 MR. SIMON: Q Have any of your doctors told you

21 you have kidney problems or disease?

22 A No.

23 Q You continue to see Dr. Patel, correct?

24 A Yes.

25 Q How frequently do you see him?

19 (Pages 73 to 76)

Willie Mae Wilburn

Page 77

1 A Now?  
 2 Q Yes.  
 3 A I think every three months.  
 4 Q And for what conditions do you see him every  
 5 three months?  
 6 A Just a checkup. Now, just a checkup.  
 7 Q And he wants to check you every three months  
 8 because of what, because of what or why?  
 9 MR. MALKINSON: Objection, lack of foundation and  
 10 calls for speculation as to what the doctor is thinking  
 11 when he has her return every three months.  
 12 MR. SIMON: Q What is your understanding as to why  
 13 you see him every three months?  
 14 A Just checking my heart and things, blood  
 15 pressure.  
 16 Q Anything else?  
 17 A That's it.  
 18 Q Did you have any discussions with Dr. Patel  
 19 about Digitek and your contention that it harmed you?  
 20 A I was telling him about the symptoms I had, was  
 21 experiencing. I told him about that.  
 22 Q And did Dr. Patel say anything to you about  
 23 that?  
 24 A He just started telling me, you know, take -- He  
 25 gave me the new medicine and to take it every other day.

Page 78

1 Q Did you discuss your lawsuit with Dr. Patel?  
 2 A No, I didn't.  
 3 Q Does Dr. Patel know that you filed a lawsuit?  
 4 MR. MALKINSON: Objection, lack of foundation as to  
 5 what he knows, calls for speculation.  
 6 MR. SIMON: Q Do you know if Dr. Patel knows that  
 7 you filed a lawsuit?  
 8 A I didn't tell him.  
 9 Q Has Dr. Patel ever told you that taking the  
 10 Digitek harmed you?  
 11 A He didn't, no.  
 12 Q Have you ever talked to anyone at Actavis or  
 13 Mylan, the companies who are named in this lawsuit?  
 14 A Someone called me one day.  
 15 Q Tell me --  
 16 A Right after that.  
 17 Q Tell me about that.  
 18 A They just asked me, you know, how was I feeling,  
 19 did I take it.  
 20 Q What did you tell them?  
 21 A Yes, I took it.  
 22 Q Did you tell them anything else?  
 23 A No.  
 24 Q When were you contacted?  
 25 A I can't recall. In specific, I can't recall.

Page 79

1 Q Do you know who called you?  
 2 A No.  
 3 Q Was it by phone that they contacted you?  
 4 A Yes.  
 5 Q Do you know what company they indicated they  
 6 were associated with?  
 7 A The one showed.  
 8 Q Actavis?  
 9 A Yes.  
 10 Q Do you remember anything else about that  
 11 conversation?  
 12 A No.  
 13 Q Did you tell them --  
 14 A The only thing, they just said they'll get back  
 15 to me. They never did call anymore.  
 16 MR. MALKINSON: I'd just interject. If the defense  
 17 has a statement of her, we'd like it produced.  
 18 MR. SIMON: Q I'm just trying to find out what you  
 19 remember was discussed in this telephone conference.  
 20 MR. MALKINSON: Object to the characterization as  
 21 mischaracterizing the evidence. It doesn't sound like  
 22 it was a conference.  
 23 MR. SIMON: Q In this telephone call what was  
 24 discussed?  
 25 A If I had been taking it, digoxin.

Page 80

1 Q Okay. You told them you were taking Digitek?  
 2 A I took it, yes.  
 3 Q What else did you tell them or what else was  
 4 discussed?  
 5 A She asked me did I have a heart problem and am I  
 6 having any problem.  
 7 Q And what did you say?  
 8 A I just said I had talked to my doctor.  
 9 Q Did you say anything else?  
 10 A I can't recall.  
 11 Q Did you communicate in writing with anyone from  
 12 Actavis or Mylan?  
 13 A No.  
 14 Q Did they send you any written material at any  
 15 time?  
 16 A No.  
 17 Q When you took the Digitek tablets back to the  
 18 pharmacy, what did the pharmacist tell you about them?  
 19 A They didn't tell me anything that was wrong.  
 20 They just had taken them and said they had to check  
 21 them.  
 22 Q Did the person who called you originally about  
 23 the recall -- Well, strike that.  
 24 What did the person who originally called you  
 25 about the recall from the pharmacy tell you?

20 (Pages 77 to 80)

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Page 81

1 MR. MALKINSON: Objection, asked and answered. You  
2 can answer.  
3 THE WITNESS: They told me don't take them anymore  
4 because they had recalled them and to bring the tablets  
5 in.  
6 MR. SIMON: Q Did you ever look up Digitek in any  
7 type of pill book?  
8 A No.  
9 MR. MALKINSON: John, I need a bathroom break.  
10 MR. SIMON: Absolutely.  
11 (Recess was taken.)  
12 MR. SIMON: Q Mrs. Wilburn, do you have a habit or  
13 practice regarding your taking of medications?  
14 A No.  
15 MR. MALKINSON: Object to the vagueness.  
16 MR. SIMON: Q When do you take your medications?  
17 A In the morning, every morning.  
18 Q What time?  
19 A Probably 8:00 o'clock.  
20 Q Do you take your medications with meals?  
21 A After.  
22 Q How long after your breakfast do you take your  
23 medications?  
24 A Right after.  
25 Q What do you typically eat for breakfast?

Page 82

1 A Sometimes eggs. Sometimes toast. Mostly toast  
2 and a juice in the morning.  
3 Q Anything else that you regularly eat other than  
4 eggs or toast?  
5 A I don't eat eggs.  
6 MR. MALKINSON: For breakfast?  
7 MR. SIMON: Q For breakfast.  
8 A I eat eggs about twice a week.  
9 Q And on the days you don't eat eggs, what do you  
10 eat?  
11 A Toast and juice, like that.  
12 Q Do you eat any cereal?  
13 A Not at all.  
14 Q Do you take any bran?  
15 A When I eat cereal, bran flakes. I eat bran  
16 flakes. Are you talking about the brand of --  
17 MR. MALKINSON: He's asking about breakfast. Do you  
18 eat bran?  
19 THE WITNESS: I take -- A certain brand?  
20 MR. MALKINSON: No, not a brand. She thinks you're  
21 saying brand.  
22 MR. SIMON: Q Do you take any fiber or bran as  
23 part of your diet?  
24 A When I eat cereal, I do.  
25 Q Other than occasionally eating cereal, you don't

Page 83

1 take any sort of bran or fiber supplements?  
2 A No.  
3 Q Do you take any vitamins?  
4 A No.  
5 Q You indicated earlier that in February or March  
6 you started taking Digitek every other day at Dr.  
7 Patel's suggestion.  
8 A Yes.  
9 Q Did your symptoms improve after you started  
10 doing that?  
11 A Just a little bit better. Just a little bit.  
12 Q What symptoms did you continue to experience  
13 after taking Digitek every other day?  
14 A Mostly the same ones until I got off of the  
15 digoxin, and then I started feeling better.  
16 Q When you say mostly the same ones, what  
17 symptoms? Specifically what symptoms did you continue  
18 to experience?  
19 A The weakness and dizziness, tired.  
20 Q So from February or March when you started  
21 taking Digitek every other day up until the time you  
22 stopped taking Digitek, which was in late April or May  
23 of 2008, you continued to experience those symptoms?  
24 A It got better and better. I got better and  
25 better.

Page 84

1 Q Did there come a point in time where you stopped  
2 experiencing those symptoms?  
3 A Yes.  
4 Q When was that?  
5 A Probably about a month after.  
6 Q About a month after you stopped taking Digitek  
7 or about a month after you started --  
8 A When I started on the new one.  
9 Q Did you continue to experience symptoms after  
10 you changed to a different brand of digoxin?  
11 A No, I got better and better.  
12 Q How long after you stopped taking Digitek did  
13 your symptoms resolve completely?  
14 A Like a month after.  
15 Q Did you continue to experience those symptoms  
16 for about a month after stopping Digitek?  
17 A Well, I wasn't -- Not the same -- not the same  
18 as when I was taking the Digitek. It was getting milder  
19 and milder.  
20 MR. MALKINSON: Do you need the bottle?  
21 MR. SIMON: Yes.  
22 When you filled your prescriptions, you got a  
23 30-day supply of Digitek; is that true?  
24 A The old one?  
25 Q Correct.

21 (Pages 81 to 84)



Willie Mae Wilburn

Page 85

1 A Yes, I had gotten a 30-day supply.  
 2 Q Do you know how many doses of the Digitek you  
 3 took before you stopped from this last prescription  
 4 fill?  
 5 A I can't recall.  
 6 MR. MALKINSON: I'll just object on foundation  
 7 because she testified before that she had some extra  
 8 pills from when she went on it every other day. So some  
 9 of the pills in there may have been from before March  
 10 3rd.  
 11 MR. SIMON: Q You just don't know how many pills  
 12 you had taken out of that prescription before you  
 13 stopped taking them?  
 14 A No, I was taking them every other day, you know.  
 15 So I had some left over.  
 16 Q Was there any association from the time you took  
 17 your Digitek in the morning and when you would  
 18 experience your symptoms?  
 19 A All day.  
 20 Q So you would continue to experience symptoms  
 21 throughout the day?  
 22 A Yes, that's why I couldn't remember too well  
 23 either.  
 24 Q Why do you believe the Digitek tablets contained  
 25 digoxin in excess of the labeled dose?

Page 86

1 A Repeat.  
 2 Q Why do you think that the Digitek tablets  
 3 contained digoxin in excess of the labeled doses?  
 4 MR. MALKINSON: I'd just object to the extent it's  
 5 asked and answered. It's what the pharmacy told her.  
 6 MR. SIMON: Q Is the basis for your belief that  
 7 the Digitek tablets contained excess digoxin the recall?  
 8 MR. MALKINSON: Do you understand his question?  
 9 THE WITNESS: No, I don't understand.  
 10 MR. SIMON: Q Why do you believe the Digitek  
 11 tablets contained too much digoxin?  
 12 A The way I felt, it must have because I wasn't  
 13 feeling active.  
 14 Q At any point in time during your treatment,  
 15 doctor visits, did anyone use the term digoxin toxicity?  
 16 A No.  
 17 Q Did anyone ever use the term digoxin overdose?  
 18 A Overdose?  
 19 MR. MALKINSON: If you recall.  
 20 THE WITNESS: The only thing is, the pharmacy, they  
 21 might have some larger ones in there.  
 22 MR. SIMON: Q Do you claim that you have or may  
 23 develop any mental, psychological or emotional condition  
 24 as a result of using Digitek?  
 25 A Since then my remembrance is not as good. I

Page 87

1 forget.  
 2 Q So you claim that your use of Digitek has  
 3 resulted in a loss of memory?  
 4 A During that time I was taking it like that,  
 5 that's when I was like having to think to remember what  
 6 I was going to say.  
 7 Q What about now? Do you contend that your  
 8 Digitek use continues to cause you a loss of memory?  
 9 A Not as bad.  
 10 Q When you say not as bad, do you --  
 11 A There was when I was taking it.  
 12 Q Do you believe taking the Digitek continues to  
 13 cause you memory loss?  
 14 A Well, it seemed like I never fully recovered  
 15 when I was taking that Digitek, that I was getting  
 16 nervous and I was getting like I couldn't remember when  
 17 I was having the nausea.  
 18 MR. MALKINSON: He's asking about today. Do you  
 19 believe you have problems with regard to your memory  
 20 today because of Digitek?  
 21 THE WITNESS: Yes.  
 22 MR. SIMON: Q You indicated that you have not  
 23 fully recovered from your use of Digitek. I want to  
 24 know what symptoms you continue to experience that you  
 25 believe were caused by Digitek.

Page 88

1 A I'm still like slower. The new medicine helped  
 2 me a lot better, but I'm still like kind of tired for  
 3 when I was taking the Digitek.  
 4 Q So you believe that you continue to be tired  
 5 because of your use of Digitek?  
 6 A That's when I was really, really tired. I'm  
 7 better now since I've been taking the new medication,  
 8 but during that time I was tired.  
 9 Q What about now? Are you still tired because you  
 10 use Digitek?  
 11 A Not as much as I was.  
 12 Q But some?  
 13 A A little bit.  
 14 Q Other than tiredness, do you attribute any other  
 15 conditions or symptoms you currently have to your use of  
 16 Digitek?  
 17 MR. MALKINSON: I'll object to the extent it calls  
 18 for a medical opinion, but you can answer.  
 19 THE WITNESS: I don't do as much as I used to when I  
 20 was taking that Digitek and I got all nauseated and  
 21 tired and dizziness.  
 22 MR. SIMON: Q And do you contend you don't do as  
 23 much now because of your use of Digitek?  
 24 A I'm better now when I got off the Digitek.  
 25 MR. MALKINSON: He's asking you whether it affects

22 (Pages 85 to 88)



Willie Mae Wilburn

Page 89

1 you today in 2009 that way, whether you're doing less in  
 2 2009 because of the Digitek you stopped taking in 2008.  
 3 THE WITNESS: I do less than I was.  
 4 MR. SIMON: Q Do you do less because you used  
 5 Digitek?  
 6 A I do less since 2008, since 2008. A little bit  
 7 less since I was taking Digitek.  
 8 Q And you believe you do less now because you used  
 9 Digitek in 2008?  
 10 A Yes, I did a lot -- The Digitek did a lot to me  
 11 when I was taking it.  
 12 Q Have any of your doctors told you that the  
 13 symptoms you continue to experience were caused by your  
 14 use of Digitek?  
 15 A We didn't discuss it.  
 16 Q Are you currently receiving treatment or taking  
 17 any medication for the conditions you believe were  
 18 caused by your use of Digitek?  
 19 A No.  
 20 Q When would have been the last time you had any  
 21 treatment for or because of your use of Digitek?  
 22 A I didn't have any more treatments since the  
 23 doctor was trying to find out what was causing -- that  
 24 Digitek was causing my problems.  
 25 Q So when would have been the last time that you

Page 90

1 had any treatment or tests because of your use of  
 2 Digitek?  
 3 A Well, he still --  
 4 MR. MALKINSON: I'll just interject an objection to  
 5 the extent it calls for a medical opinion. You can  
 6 answer.  
 7 THE WITNESS: He still every once in a while takes  
 8 the blood test.  
 9 MR. SIMON: Q And when you say that he  
 10 continues -- Strike that.  
 11 Does Dr. Patel periodically monitor your blood  
 12 digoxin levels?  
 13 A Sometime.  
 14 Q And why does he do that? What is your  
 15 understanding as to why he does that?  
 16 MR. MALKINSON: Object to the compound nature of the  
 17 question, the form of the question.  
 18 MR. SIMON: Q You can answer.  
 19 A To see if I'm better, getting better.  
 20 Q Has Dr. Patel ever told you to limit any of your  
 21 daily activities?  
 22 A No.  
 23 Q Have you had to limit your daily activities  
 24 recently in any way?  
 25 MR. MALKINSON: I'll just object to the vague nature

Page 91

1 of what recently means.  
 2 MR. SIMON: Q You can answer.  
 3 A When I was taking digoxin --  
 4 MR. MALKINSON: You mean Digitek?  
 5 THE WITNESS: The Digitek, I had to limit because I  
 6 wasn't feeling like doing anything.  
 7 MR. SIMON: Q What about now? Do you have to  
 8 limit your activities in any way?  
 9 A I can do more.  
 10 Q Do you continue to drive?  
 11 A Yes.  
 12 Q Do you continue to grocery shop?  
 13 A Yes.  
 14 Q Do you continue to do your housework?  
 15 A Yes.  
 16 Q Do you go out from time to time?  
 17 A Yes, I go out.  
 18 Q In this lawsuit you're asking for a refund of  
 19 your copayment for Digitek; is that correct?  
 20 MR. MALKINSON: I'm going to object to questions  
 21 regarding the style and type of damages. That's what  
 22 lawsuits are for. That is one item that she is seeking  
 23 reimbursement for, but in Illinois, under the collateral  
 24 source rule, she would not be just limited to just her  
 25 copayment.

Page 92

1 MR. SIMON: Q Are you seeking a refund for the  
 2 purchase price of your Digitek?  
 3 A Yes, for all the expenses, the other people's  
 4 and me, all expenses that we was out of while they was  
 5 recalling the Digitek.  
 6 Q What expenses are you out of because of the  
 7 Digitek recall?  
 8 MR. MALKINSON: Again, I'll object under the  
 9 collateral source rule. You can answer.  
 10 THE WITNESS: I had to pay --  
 11 MR. MALKINSON: I'm also objecting to the extent it  
 12 calls for something that would be what she's hired  
 13 lawyers for. Go ahead.  
 14 MR. SIMON: You can answer.  
 15 THE WITNESS: I'll let my lawyer answer that.  
 16 MR. MALKINSON: No, no, I'm letting you answer what  
 17 expenses --  
 18 MR. SIMON: He'll tell you not to answer if he  
 19 doesn't want you to answer.  
 20 MR. MALKINSON: Yes, I will. I'll be very vocal  
 21 about it.  
 22 MR. SIMON: Q I want to find out what expenses you  
 23 paid out that you're attributing or that -- what  
 24 expenses you paid out because of your use of Digitek.  
 25 MR. MALKINSON: He's not asking you for dollars and

23 (Pages 89 to 92)

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Page 93

1 cents. He's asking you what things -- what money paid  
 2 for what.  
 3 THE WITNESS: For the CAT scan, medicine and  
 4 electrocardiogram.  
 5 MR. MALKINSON: Blood tests, your digoxin level  
 6 test.  
 7 THE WITNESS: My digoxin level test. When I paid  
 8 the doctor to go up to see him, every time I went to see  
 9 him.  
 10 MR. SIMON: Q Anything else?  
 11 A All the copayments I did, transfers of digoxin,  
 12 new medicine.  
 13 Q Do you know how many additional visits you had  
 14 with Dr. Patel because of your use of Digitek?  
 15 A He was having me come like every two weeks and  
 16 things like that.  
 17 Q How long of a period were you going to see Dr.  
 18 Patel every two weeks?  
 19 A March, April.  
 20 Q So it's your recollection that you were seeing  
 21 Dr. Patel every two weeks through March and April of  
 22 2008?  
 23 A Yes.  
 24 Q What about in May?  
 25 A I had to go in May. I can't recollect how many

Page 94

1 times I went in May.  
 2 Q Why did you want to file this case as a class  
 3 action as opposed to an individual lawsuit?  
 4 A Because of the peoples, while we were taking the  
 5 Digitek, while they were recalling, and our financial  
 6 expenses.  
 7 Q Well, why did you want to file this case as a  
 8 class action, you personally?  
 9 A Because of what I had to go through, the  
 10 expenses I put out and all the -- I had to go through  
 11 the tests and stuff, and that wasn't easy.  
 12 Q Why did you want to bring this lawsuit on behalf  
 13 of all kinds of people as opposed to just yourself?  
 14 A I just want to help other people and myself,  
 15 too, that we had taken that Digitek.  
 16 Q You understand that you could have filed your  
 17 own lawsuit as opposed to a class action, right?  
 18 A No.  
 19 Q Do you understand that you have special duties  
 20 and responsibilities as a class representative?  
 21 A Nothing but trying to help the peoples and  
 22 myself during the time we were taking that Digitek, or  
 23 we lost a lot and we've taken the Digitek and trying to  
 24 find out.  
 25 Q What do you understand your duties and

Page 95

1 responsibilities to be as a class representative?  
 2 A To help myself and other people.  
 3 Q Anything else?  
 4 A And find out why the company didn't notify us  
 5 about the Digitek. Only the pharmacy notified us. The  
 6 company didn't notify us to not take that Digitek before  
 7 then.  
 8 Q Who do you believe you represent in this  
 9 lawsuit?  
 10 A All of the peoples all over the world. I don't  
 11 know how many, but all of the peoples.  
 12 MR. MALKINSON: Which people?  
 13 THE WITNESS: The people that has the class action.  
 14 MR. SIMON: Q Do you believe that you represent  
 15 everyone who ever bought Digitek in the world?  
 16 MR. MALKINSON: Or the United States.  
 17 THE WITNESS: The United States, yes.  
 18 MR. SIMON: Q Or do you believe that you represent  
 19 just those persons who bought Digitek in Illinois?  
 20 A United States.  
 21 Q Do you believe you represent people who believe  
 22 Digitek caused them physical harm or injury?  
 23 A Yes.  
 24 Q Do you believe that you represent people who  
 25 believe Digitek caused them pain and suffering?

Page 96

1 A Yes.  
 2 Q Do you recognize that there may be some people  
 3 who don't believe they were physically or mentally  
 4 injured?  
 5 A I can't say about those. Only the peoples that  
 6 are in the class action.  
 7 Q Are you seeking to recover damages for your  
 8 personal injury?  
 9 A Yes, mine's and other people's too.  
 10 MR. MALKINSON: You'll recall we amended the  
 11 complaint. We're not recovering for everyone's personal  
 12 injury. We're recovering for yours. We're recovering  
 13 for financial losses for everyone else. You understand  
 14 that?  
 15 THE WITNESS: Yes.  
 16 MR. SIMON: Q So are you seeking to recover  
 17 damages for your personal injury?  
 18 A Yes.  
 19 Q Are you seeking to recover damages for other  
 20 people's personal injury?  
 21 A Yes.  
 22 MR. MALKINSON: Again, we've already -- I just  
 23 finished. We just discussed this. Listen to me when  
 24 I'm talking to you. Do you understand that yesterday we  
 25 amended our complaint? We are not seeking --

24 (Pages 93 to 96)

Willie Mae Wilburn

Page 97

1 MR. SIMON: Objection, Counsel.

2 MR. MALKINSON: I'm finishing. You can make your  
3 objection.

4 Under the new complaint we are no longer  
5 seeking to recover personal injury damages for everyone  
6 else, just for you, but that for everyone else we're  
7 trying to recover their financial losses for buying the  
8 pills and having the post-recall tests. You understand  
9 that?

10 THE WITNESS: Yes.

11 MR. MALKINSON: Okay. So don't tell him that you're  
12 trying to recover for everyone's pain and suffering and  
13 injuries if we've changed our contention in our case and  
14 we're not doing that anymore.

15 THE WITNESS: I understand. I'm sorry.

16 MR. MALKINSON: Okay. The record speaks for itself.

17 MR. SIMON: I'm going to move to strike that whole  
18 diatribe that counsel used to influence his client's  
19 response to the questions.

20 Do you understand that it's possible that by  
21 limiting others' claims to a refund claim, that they may  
22 be precluded from filing a separate suit about their  
23 claimed physical injuries?

24 MR. MALKINSON: Objection, calls for a legal  
25 conclusion.

Page 99

1 law. It goes beyond --

2 MR. SIMON: You can answer the question.

3 MR. MALKINSON: If you know, say so. If you don't  
4 know, say you don't know.

5 THE WITNESS: I don't know.

6 MR. SIMON: Q Do you think that would be fair,  
7 that they would be prevented from bringing claims for  
8 their physical injuries?

9 A No.

10 Q That would not be fair?

11 A No.

12 Q How did you get selected as a class  
13 representative?

14 MR. MALKINSON: I'm objecting. It assumes facts not  
15 in evidence. It assumes some selection process which  
16 never existed.

17 MR. SIMON: Counselor, that's enough of the speaking  
18 objections. Any more and we're going to have to get the  
19 Court on the phone.

20 MR. MALKINSON: Are you done?

21 MR. SIMON: Q You can answer the question. How  
22 did you --

23 A Could you repeat?

24 Q How did you get selected as a class  
25 representative?

Page 98

1 MR. SIMON: You can answer.

2 MR. MALKINSON: Lack of foundation. If you know,  
3 Do you understand the question?

4 THE WITNESS: Not really.

5 MR. MALKINSON: If you don't understand a question  
6 or if you don't know the answer, just say so.

7 MR. SIMON: Counselor, no more speaking objections.

8 MR. MALKINSON: That's not an objection. That's  
9 guidance to my client.

10 MR. SIMON: Can you read back the question, please?

11 (Record read.)

12 MR. MALKINSON: Same objection at this point.

13 MR. SIMON: Q You can answer.

14 A For my claim?

15 Q For others' claims. We're talking about others'  
16 claims now.

17 Do you understand that it's possible by  
18 limiting others' claims to a refund claim that you may  
19 prevent them from filing a separate suit about their  
20 claimed physical injuries?

21 MR. MALKINSON: I'm objecting --

22 THE WITNESS: No.

23 MR. MALKINSON: Let me say my objection. I'm  
24 objecting because it calls for a legal conclusion. It  
25 states facts not in evidence and inaccurately states the

Page 100

1 MR. MALKINSON: Objection, assumes facts not in  
2 evidence. Object to the form of the question.

3 Objection, lack of foundation. Objection,  
4 argumentative.

5 MR. SIMON: You can answer.

6 MR. MALKINSON: Do you understand the question?

7 THE WITNESS: Not really.

8 MR. MALKINSON: When you don't understand a  
9 question, please say so. Don't sit there and ruminate  
10 about it.

11 MR. SIMON: Q How did you get selected as a class  
12 representative?

13 MR. MALKINSON: Same objections as before.

14 THE WITNESS: I --

15 MR. MALKINSON: Object to the form of the question.

16 THE WITNESS: Yes.

17 MR. SIMON: Q How did you get selected as a class

18 representative in this lawsuit?  
19 MR. MALKINSON: Same objections as to the last few  
20 questions.

21 MR. SIMON: So noted, Counselor.

22 MR. MALKINSON: Okay. But you haven't so noted  
23 before, so I'm just restating it.

24 MR. SIMON: Q Are you thinking of an answer?

25 A No.

25 (Pages 97 to 100)

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Willie Mae Wilburn

Page 101	Page 103
<p>1 Q What is your understanding as to how you were</p> <p>2 selected as a class representative in this case?</p> <p>3 MR. MALKINSON: Objection, lack of foundation.</p> <p>4 Objection, calls for a legal conclusion. Objection,</p> <p>5 because no representatives have been appointed by the</p> <p>6 Court, and in a class action in the United States you're</p> <p>7 not a representative until you've been appointed.</p> <p>8 So your question is meritless at this stage of</p> <p>9 the litigation. She has filed in that capacity in hopes</p> <p>10 of being named as a representative.</p> <p>11 If you know the answer, answer it. If you</p> <p>12 don't know an answer, say you don't understand it or you</p> <p>13 don't know.</p> <p>14 THE WITNESS: I don't understand it.</p> <p>15 MR. SIMON: Q How did you get to be a class</p> <p>16 representative in this case?</p> <p>17 A I don't understand.</p> <p>18 Q You don't know how you were selected as a class</p> <p>19 representative in this case?</p> <p>20 MR. MALKINSON: Same objections as before.</p> <p>21 THE WITNESS: No.</p> <p>22 MR. SIMON: Q You have no idea how you were</p> <p>23 selected as a class representative in this case?</p> <p>24 A No.</p> <p>25 Q Do you have any idea why you were selected as a</p>	<p>1 Q Anything else?</p> <p>2 A No.</p> <p>3 Q Do you understand that there's a chance the</p> <p>4 Court could order you to pay some of the defendant's</p> <p>5 cost in defending this case in the event it finds the</p> <p>6 case to be without merit?</p> <p>7 MR. MALKINSON: I object to the extent that that</p> <p>8 misstates the law.</p> <p>9 MR. SIMON: Q You can answer.</p> <p>10 A No, only my --</p> <p>11 Q Are you -- I'm sorry.</p> <p>12 A Only my lawyer and the jury should know. I</p> <p>13 don't know.</p> <p>14 Q Are you willing to incur the expense?</p> <p>15 A No.</p> <p>16 Q Did your attorneys refer you to any doctors for</p> <p>17 evaluations?</p> <p>18 A No.</p> <p>19 Q Are payments to any of your doctors being made</p> <p>20 by or through your attorney?</p> <p>21 A No.</p> <p>22 Q Did you make insurance claims for the expenses</p> <p>23 you attribute to Digitek in this case?</p> <p>24 MR. MALKINSON: I object based on the collateral</p> <p>25 source rule. You can answer.</p>
Page 102	Page 104
<p>1 class representative in this case?</p> <p>2 MR. MALKINSON: Same objections.</p> <p>3 THE WITNESS: No.</p> <p>4 MR. MALKINSON: Assumes a selection process. Object</p> <p>5 to the form of the question.</p> <p>6 MR. SIMON: Did the reporter get the response?</p> <p>7 THE REPORTER: Yes.</p> <p>8 MR. SIMON: Thank you.</p> <p>9 Why do you want to represent the proposed</p> <p>10 class?</p> <p>11 MR. MALKINSON: Objection, asked and answered.</p> <p>12 THE WITNESS: Me answer?</p> <p>13 MR. SIMON: Q Yes, you can answer.</p> <p>14 A I wanted to help myself and other peoples.</p> <p>15 Q What do you hope to achieve for the proposed</p> <p>16 class in this case?</p> <p>17 A That when they was recalling digoxin, that we</p> <p>18 were suffering and expenses and all that.</p> <p>19 Q In your own words, what do you think the</p> <p>20 defendants did wrong in this case?</p> <p>21 A I don't recall.</p> <p>22 Q What do you feel the defendants did wrong in</p> <p>23 this case?</p> <p>24 A Like I say, they didn't let us know, you know,</p> <p>25 about this digoxin.</p>	<p>1 THE WITNESS: No.</p> <p>2 MR. SIMON: Q Were the costs you incurred</p> <p>3 reimbursed by insurance?</p> <p>4 MR. MALKINSON: Same objection. You can answer.</p> <p>5 THE WITNESS: By insurance?</p> <p>6 MR. SIMON: Q Right.</p> <p>7 A Well, they had paid a part. I had paid my part.</p> <p>8 Q Did you have to pay any amount in excess of your</p> <p>9 copayments for the medical treatment you contend was</p> <p>10 necessary due to your use of Digitek?</p> <p>11 A No.</p> <p>12 Q Is the copayment for your medications \$5 per</p> <p>13 prescription?</p> <p>14 MR. MALKINSON: If you know the exact amount.</p> <p>15 MR. SIMON: Q You can answer.</p> <p>16 A Yes, for the medication, but not doctors.</p> <p>17 Q What is your copayment for your doctor visits?</p> <p>18 A At that time it's \$10.</p> <p>19 Q What is it now?</p> <p>20 A This year it got zero.</p> <p>21 Q When did your copayments for doctor visits</p> <p>22 become zero?</p> <p>23 A January.</p> <p>24 MR. MALKINSON: That's '09?</p> <p>25 THE WITNESS: '09. Just for the doctor.</p>

26 (Pages 101 to 104)

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<p style="text-align: right;">Page 105</p> <p>1 MR. SIMON: Q What triggered the fact that you no 2 longer have to make a copayment for doctor visits? 3 A That's what the insurance told me. 4 Q Who is your insurance through? 5 A Humana HMO. 6 Q Is that through somebody's prior employment? 7 A No. 8 MR. MALKINSON: I'm just going to make a standing 9 objection on anything having to do with insurance. I 10 don't think it's irrelevant. 11 MR. SIMON: Q Do you believe you will incur 12 additional medical treatment as a result of your use of 13 Digitek? 14 A No. 15 Q In addition to the costs you are seeking to 16 recover for your medical treatment and prescription 17 copayments, what else are you seeking to recover in 18 terms of damages in this case? 19 MR. MALKINSON: I'm just going to object to the 20 extent it mischaracterizes her testimony, it calls for a 21 legal conclusion, and in Illinois you have unlimited 22 copayments. 23 MR. SIMON: Q You can answer. 24 A Unlimited copayments? 25 Q Strike that. We'll start over.</p>	<p style="text-align: right;">Page 107</p> <p>1 having when I was having those episodes. 2 Q And your husband's name is? 3 A [REDACTED] 4 Q [REDACTED]? 5 A Yes. 6 Q Now, you also indicated that your daughter 7 provided you with some information about Digitek; is 8 that correct? 9 A Yes, she was telling me -- you know, she was 10 looking it up and seeing if there was a recall after I 11 told her the pharmacy had called me about the recall and 12 she was checking it out. 13 Q And her name again was what? 14 A [REDACTED] 15 Q Did you discuss your use of Digitek or the 16 problems you had with your use of Digitek with anyone 17 else besides your daughter and your husband? 18 A Just my children knew how I was feeling. 19 Q And what are the names of your other children? 20 A [REDACTED] 21 Q I'm sorry? 22 A [REDACTED] 23 Q Could you spell that? 24 A [REDACTED] Of course, you've 25 got [REDACTED]</p>
<p style="text-align: right;">Page 106</p> <p>1 What else are you seeking to recover in terms 2 of money damages? 3 Well, let's just do it this way. What are you 4 seeking to recover in terms of money damages in this 5 case? 6 MR. MALKINSON: I'm going to object. That's been 7 asked and answered already. She listed the tests and 8 the bills and her personal injuries. You can answer. 9 THE WITNESS: For all the tests and the pills and 10 my -- all the stress and stuff I had. 11 MR. SIMON: Q Did you seek any medical treatment 12 for the stress you had because of your use of Digitek? 13 A Just changed the medication and that made it 14 better. 15 Q Did you go and get any treatment for your 16 stress? 17 A No. 18 Q Do you plan in the future to go and get 19 treatment for stress or anxiety because of your use of 20 Digitek? 21 A No, I hope not. 22 Q Now, you indicated that you had conversations 23 with your husband about your use of Digitek; is that 24 correct? 25 A No, I was just telling him the symptoms I was</p>	<p style="text-align: right;">Page 108</p> <p>1 MS. WEST: I'm sorry, was that [REDACTED]? 2 THE WITNESS: [REDACTED] 3 MR. MALKINSON: [REDACTED] and [REDACTED] 4 THE WITNESS: [REDACTED] 5 MR. MALKINSON: Oh, [REDACTED] 6 MR. SIMON: I believe those are all the questions I 7 have for you, Mrs. Wilburn. I'm going to pass you over 8 to Ms. West in the event she has any questions that she 9 might have while I look through my notes. 10 THE WITNESS: Okay. 11 MR. SIMON: Thank you. 12 THE WITNESS: Thank you. 13 MR. SIMON: Can we take a short break? 14 MS. WEST: Sure. 15 (Recess was taken.) 16 EXAMINATION 17 by Ms. West: 18 MS. WEST: Q Mrs. Wilburn, you and I met earlier 19 this morning. My name is Sarah West. I represent the 20 Mylan entities, Mylan Pharmaceuticals, Mylan Bertek, 21 Mylan, Inc. and UDL Laboratories. 22 I will be asking you a few follow-up questions. 23 It shouldn't take that much longer. Okay? 24 A Yes. 25 Q The same kinds of instructions apply. You know,</p>

27 (Pages 105 to 108)

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Willie Mae Wilburn

Page 109

1 try not to talk over each other. If you don't  
 2 understand, you know, as your counsel has instructed  
 3 you, just say so, or if I'm not clear, just say so. We  
 4 don't want you to guess or speculate at all. Okay?  
 5 A Okay.  
 6 Q All right. And I apologize because I'm going to  
 7 be jumping around a little bit.  
 8 You had mentioned that in March 2008 you had an  
 9 episode of dizziness, you felt weak and dizzy. Was  
 10 anyone with you at that time when you were experiencing  
 11 that?  
 12 A No.  
 13 Q You were by yourself?  
 14 A Yes.  
 15 Q And you were in your car?  
 16 A Yes.  
 17 Q Had this been going on all day or can you -- Do  
 18 you remember what happened that day? Sort of give me a  
 19 breakdown of how -- what were the things that you did  
 20 that day.  
 21 A Well, that day I went to the pharmacy. Then I  
 22 had to stop by a store. And so that's when I was  
 23 getting dizzy and nausea, when I was in the car, before  
 24 I got out.  
 25 Q Okay. Was that in the morning or afternoon when

Page 110

1 you felt dizzy?  
 2 A It was closer to noon.  
 3 Q It was closer to noon?  
 4 A Yes.  
 5 Q Had you eaten that day?  
 6 A Yes.  
 7 Q Okay. Do you recall at all what you had eaten?  
 8 A I can't recall, but I did eat. I eat breakfast  
 9 every morning.  
 10 Q Okay. And you had that dizzy spell you think in  
 11 February or March of 2008; is that correct?  
 12 A In March.  
 13 Q It was in March?  
 14 A Yes.  
 15 Q Okay. And then you told Dr. Patel about that  
 16 dizzy spell approximately six days after the recall?  
 17 A Yes.  
 18 Q Okay. You had talked a little bit earlier today  
 19 about some tests that you had done after the recall and  
 20 discussions, or a lack thereof, with Dr. Patel about  
 21 those tests.  
 22 Do you know if -- or did Dr. Patel ever tell  
 23 you anything at all about those tests? Did he ever say  
 24 whether the tests were better or worse than tests that  
 25 you've had in the past?

Page 111

1 A Well, he was saying that sometimes -- sometime  
 2 he was saying my digoxin level was high and then  
 3 sometimes he would say it's low. Then I still had  
 4 palpitations and fibrillations.  
 5 Q So when you had those tests right after the  
 6 recall, did he say whether those tests were better or  
 7 worse than the tests you had had before?  
 8 A From February, March and April, all those tests  
 9 were like the same.  
 10 Q So they were -- you believe that they indicated  
 11 that your health was worse; is that correct?  
 12 A During that time until I started taking the new  
 13 medicine, then I started getting better.  
 14 Q Did Dr. Patel tell you that the tests were  
 15 worse?  
 16 A When I go to him, he'll tell me that, you know,  
 17 you still have fibrillation and still have the heart,  
 18 you know, palpitation.  
 19 Q Did he say whether your condition had worsened?  
 20 A Well, he be -- he was checking most of the blood  
 21 tests. Every time he had me come in to take the blood  
 22 tests because I still had the same symptoms.  
 23 Q So did he say one way or the other whether your  
 24 condition had worsened or gotten better?  
 25 A Gotten better after I started taking the new

Page 112

1 medicine.  
 2 Q But before you had started taking the new  
 3 medicine, did he tell you anything about whether your  
 4 condition had worsened than before the recall?  
 5 A It was about the same.  
 6 Q That's what he told you?  
 7 A Uh-huh. You know, the level was going up and  
 8 down though.  
 9 Q That's what Dr. Patel told you --  
 10 A Yes.  
 11 Q -- that your digoxin level was going up and  
 12 down?  
 13 A Yes.  
 14 Q Okay. And he told you it stopped going up and  
 15 down after you were put on this new medication?  
 16 A It started gradually going down.  
 17 Q Okay. Do you live with anyone else besides your  
 18 husband [REDACTED]?  
 19 A No.  
 20 Q No? Okay. And is [REDACTED] retired?  
 21 A Yes.  
 22 Q Okay. What did he do for a living before he  
 23 retired?  
 24 A He was in a bakery.  
 25 Q He was a baker?

28 (Pages 109 to 112)

Willie Mae Wilburn

Page 113

1 A Yes.  
 2 Q He worked in a bakery?  
 3 A Pardon?  
 4 Q He worked in a bakery?  
 5 A Yes.  
 6 Q Okay. When did he retire?  
 7 A 1997.  
 8 Q Is he in good health?  
 9 A Not really. He doesn't have real good health,  
 10 no.  
 11 Q What kinds of health problems does your husband  
 12 have?  
 13 MR. MALKINSON: I'm just going to object on  
 14 relevance. You can answer.  
 15 THE WITNESS: He have blood pressure and diabetic  
 16 MS. WEST: Q Is he able to get around on his own  
 17 or does he require any assistance from you?  
 18 A He can get around, but not like it was before he  
 19 got sick.  
 20 Q He got sick at some point?  
 21 A When he developed diabetic and things like that.  
 22 Q When he was diagnosed with diabetes?  
 23 A Yes.  
 24 Q When was he diagnosed with diabetes?  
 25 MR. MALKINSON: Objection, relevance.

Page 114

1 MS. WEST: Q Approximately.  
 2 A About seven years ago.  
 3 Q Okay. Have you had to give any special, extra  
 4 assistance to your husband since his diagnosis?  
 5 A Take him to the doctor.  
 6 Q Other than that, anything else that you've had  
 7 to do, any additional chores you've had to take on?  
 8 A Nothing but the same regular, you know, fixing a  
 9 meal.  
 10 Q He's not bedridden or anything?  
 11 A No.  
 12 Q Okay. How old is your husband?  
 13 A 74.  
 14 Q Okay. In May of 2008, when you went to the  
 15 emergency room, do you recall that?  
 16 A Yes.  
 17 Q Can you tell me what happened that led to you  
 18 going to the emergency room? I believe you had said  
 19 earlier that you had called your doctor's office.  
 20 A Yes. Well, I was having -- I was dizzy and weak  
 21 and I could feel my palpitation, and I decided I need to  
 22 call a doctor to see what I should do.  
 23 Q Had you been doing anything different that day  
 24 than you normally do in your usual routine?  
 25 A No, that was in the morning. I hadn't started

Page 115

1 doing anything else.  
 2 Q Okay. And this weakness or this dizzy feeling  
 3 you were having, was that something that came on  
 4 gradually or did that happen all of a sudden?  
 5 A I started having episodes with dizziness. It  
 6 will come on. Like it started in March.  
 7 Q Right. But that day in May when you went to the  
 8 emergency room, the feeling of dizziness that you had,  
 9 was that a sudden feeling of dizziness or had you been  
 10 gradually or just feeling that way all day?  
 11 A I was asleep during the night. So when I got  
 12 up, that's when I started -- you know, I started feeling  
 13 it.  
 14 Q So it was kind of going on all morning?  
 15 A Yes, until I calmed down.  
 16 Q You had mentioned I think that you had arthritis  
 17 in your knee.  
 18 A Yes.  
 19 Q Do you still have arthritis?  
 20 A Yes, I still have arthritis.  
 21 Q And where do you -- what parts of your body do  
 22 you suffer from arthritis in?  
 23 A Knee.  
 24 Q Your knee?  
 25 A Uh-huh.

Page 116

1 Q Which knee?  
 2 A My right knee.  
 3 Q Your right knee? Okay. Are you being treated  
 4 for that condition?  
 5 A No.  
 6 Q You're not seeing a doctor?  
 7 A You know, I went and had surgery and it wasn't  
 8 bad. I take some arthritis medicine or something.  
 9 Q You're taking arthritis medicine?  
 10 A Sometime.  
 11 Q What kind of arthritis medicine do you take for  
 12 that?  
 13 A Tylenol. You know, Tylenol.  
 14 Q Just over-the-counter pain medication?  
 15 A Yes.  
 16 Q You're not prescribed any medication for that?  
 17 A Right after I had my knee surgery I was, but I  
 18 don't take it anymore. My doctor won't let me take it  
 19 anymore.  
 20 Q Okay. And you're not seeing any doctor for your  
 21 arthritis?  
 22 A No.  
 23 Q Do you feel that your arthritis limits your  
 24 mobility in any way?  
 25 A In walking.

29 (Pages 113 to 116)

Willie Mae Wilburn

Page 117	Page 119
<p>1 Q Do you sometimes not go on your walks because of</p> <p>2 your arthritis bothering you?</p> <p>3 A I don't go all the time, but I do some exercise</p> <p>4 around the house.</p> <p>5 Q But sometimes do you not do exercises around the</p> <p>6 house or walking because of your arthritis?</p> <p>7 A No, I just -- I just made a habit of doing it,</p> <p>8 exercising. It's a habit, you know, to keep from</p> <p>9 getting stiff.</p> <p>10 Q Okay. So are you saying -- Let me ask you</p> <p>11 again. Does your arthritis ever keep you from going on</p> <p>12 walks, exercising, doing things around the house? Do</p> <p>13 you ever say I can't do that right now because the pain</p> <p>14 from my arthritis is bothering me?</p> <p>15 A No.</p> <p>16 Q It doesn't limit you at all?</p> <p>17 A No.</p> <p>18 Q The doctor that you used to see before Dr.</p> <p>19 Patel, you said that was Dr. Thomas?</p> <p>20 A Yes.</p> <p>21 Q Do you recall Dr. Thomas' first name?</p> <p>22 A No.</p> <p>23 Q Is it a man or a woman?</p> <p>24 A A woman.</p> <p>25 Q It's a woman? Do you know if she's still</p>	<p>1 other day?</p> <p>2 A In February of 2008.</p> <p>3 Q In February of 2008 you started taking digoxin</p> <p>4 every other day?</p> <p>5 A Yes.</p> <p>6 Q And Dr. Patel told you to do that?</p> <p>7 A Yes.</p> <p>8 Q Did he explain to you or say why he wanted you</p> <p>9 to take digoxin every other day in February 2008?</p> <p>10 A That's when he was testing my heart and saw it</p> <p>11 kind of acting up. He said maybe you should take the</p> <p>12 pills every other day.</p> <p>13 Q And then were you taking digoxin every other day</p> <p>14 all the way up until the recall?</p> <p>15 A Yes.</p> <p>16 Q So from February 2008 until --</p> <p>17 A Yes.</p> <p>18 Q -- April --</p> <p>19 A 27th.</p> <p>20 Q -- 27th you were taking digoxin every other day?</p> <p>21 A Yes.</p> <p>22 Q You had said earlier today that Dr. Patel had</p> <p>23 never told you that Digitek had harmed you. Have you</p> <p>24 ever told Dr. Patel that you think Digitek has harmed</p> <p>25 you?</p>
Page 118	Page 120
<p>1 practicing in the same location?</p> <p>2 A I don't know. It's been a lot of years.</p> <p>3 Q Do you know her office location?</p> <p>4 A They done tore that building down. I don't</p> <p>5 know.</p> <p>6 Q They tore the building down? Okay. If someone</p> <p>7 wanted to find out where Dr. Thomas was, where would you</p> <p>8 suggest they look?</p> <p>9 A I don't know. I don't know.</p> <p>10 Q Okay. What conditions did Dr. Thomas treat you</p> <p>11 for?</p> <p>12 A Just high blood pressure.</p> <p>13 Q I'm sorry?</p> <p>14 A High blood pressure.</p> <p>15 Q High blood pressure? Nothing else besides high</p> <p>16 blood pressure?</p> <p>17 A Nothing else.</p> <p>18 Q You mentioned that at some point your digoxin</p> <p>19 pills were cut down to every other day, you started</p> <p>20 taking digoxin every other day. Was that after the</p> <p>21 recall or was that before the recall?</p> <p>22 A Before.</p> <p>23 Q That was before?</p> <p>24 A Yes.</p> <p>25 Q And when did you start taking digoxin every</p>	<p>1 A Well, he told me Digitek is supposed to have</p> <p>2 been the best --</p> <p>3 MR. MALKINSON: Just answer her question. Have you</p> <p>4 ever told him or asked -- Her question was whether you</p> <p>5 ever told him that you thought Digitek harmed you.</p> <p>6 THE WITNESS: No.</p> <p>7 MS. WEST: Q You started to say something about</p> <p>8 what Dr. Patel had told you about Digitek. What was it</p> <p>9 that you were going to say?</p> <p>10 A Oh, that was when I told him that they recalled</p> <p>11 the Digitek, and he said that was the best -- supposed</p> <p>12 to have been the best heart pills.</p> <p>13 Q Did he say anything to you other than that about</p> <p>14 Digitek --</p> <p>15 A No.</p> <p>16 Q -- after the recall?</p> <p>17 He didn't say anything further other than --</p> <p>18 A He just changed my medication.</p> <p>19 Q Okay. Have you ever used a product that was</p> <p>20 distributed by UDL laboratories to your knowledge that</p> <p>21 you can recall?</p> <p>22 A I can't recall.</p> <p>23 Q You can't recall whether you have?</p> <p>24 A No.</p> <p>25 Q Have you ever -- Are you familiar with what a</p>

30 (Pages 117 to 120)

Willie Mae Wilburn

Page 121

1 blister pack is?  
 2 A No.  
 3 Q Have you ever had pills -- You've had pills in a  
 4 bottle before, right?  
 5 A Yes.  
 6 Q Have you ever had pills where they would be in a  
 7 flat container with like a foil surface and you pop the  
 8 pills out of the package?  
 9 A No.  
 10 Q Have you ever seen that before?  
 11 A I never had any.  
 12 Q You've never had pills in that type of  
 13 packaging?  
 14 A All have been in bottles.  
 15 Q Always in bottles?  
 16 A Yes.  
 17 Q So you've never taken Digitek other than in a  
 18 bottle?  
 19 A Just in a bottle.  
 20 Q Have you been contacted by anyone from UDL  
 21 Laboratories?  
 22 A No.  
 23 Q Have you ever talked to any doctor or healthcare  
 24 professional about your memory loss problems?  
 25 A No, no. No.

Page 122

1 Q Okay. Have you ever told any doctor that you  
 2 are still feeling tired and you think that was caused by  
 3 Digitek?  
 4 A I told Dr. Patel, yes.  
 5 Q You told Dr. Patel that you're feeling tired  
 6 because of Digitek still?  
 7 A At the time I was taking it, I told him that --  
 8 you know, my symptoms, what I was having.  
 9 Q Okay. And you told him that you thought Digitek  
 10 caused that?  
 11 A I didn't tell him that I thought Digitek. I  
 12 just told him I was feeling -- how I was feeling.  
 13 Q Okay. So you've told Dr. Patel -- Have you told  
 14 Dr. Patel that you're still feeling tired even --  
 15 A I told him before they recalled the medication  
 16 and after.  
 17 Q Well, when was your last appointment with Dr.  
 18 Patel?  
 19 A Two weeks ago.  
 20 Q Two weeks ago?  
 21 A Yes.  
 22 Q Okay. Did you tell Dr. Patel that you're still  
 23 feeling tired at that appointment?  
 24 A No.  
 25 Q How about that you feel like you do a little bit

Page 123

1 less now than you did before? Did you tell him that at  
 2 your last appointment?  
 3 A No, I didn't tell him.  
 4 Q When was the last time that you told Dr. Patel  
 5 that you were feeling tired?  
 6 A Beginning in March 2008.  
 7 MR. MALKINSON: She's asking when the last time was,  
 8 not the first time.  
 9 THE WITNESS: Oh, the last time? In April.  
 10 MS. WEST: Q In April of this year or last year?  
 11 A This year.  
 12 Q In April of this year you told Dr. Patel that  
 13 you were still feeling tired?  
 14 A Yes.  
 15 Q And what did he say?  
 16 A Well, that's when he gave me the new medication  
 17 to help me.  
 18 Q The new medication, which was what?  
 19 A For my heart.  
 20 Q You mean Lanoxin?  
 21 A Yes.  
 22 Q You were prescribed Lanoxin for the first time  
 23 in April of 2008, correct?  
 24 A Uh-huh.  
 25 Q So are you saying that April of 2008 was the

Page 124

1 last time that you told Dr. Patel that you're still  
 2 feeling tired?  
 3 A No, no.  
 4 Q When was the last time that you told Dr. Patel  
 5 that you are still feeling tired?  
 6 A Probably in --  
 7 MR. MALKINSON: If you recall. If you don't recall,  
 8 don't guess.  
 9 THE WITNESS: I don't recall.  
 10 MS. WEST: Q You don't recall?  
 11 A No.  
 12 Q Okay. How long has [REDACTED] been your  
 13 insurer?  
 14 A 1999.  
 15 MR. MALKINSON: Object to the insurance question.  
 16 You can answer.  
 17 THE WITNESS: 1999.  
 18 MS. WEST: Q Since 1999?  
 19 A Yes.  
 20 Q Okay. And I believe that you mentioned earlier  
 21 that you also have a son; is that correct?  
 22 A Yes.  
 23 Q Okay. You have four children?  
 24 A Two sons.  
 25 Q Two sons?

31 (Pages 121 to 124)

Willie Mae Wilburn

<p style="text-align: right;">Page 125</p> <p>1 A Yes.</p> <p>2 Q You have -- Okay. So Corkey, is that --</p> <p>3 A A girl.</p> <p>4 Q Okay. Let me make sure I have this right.</p> <p>5 Okay. You have a daughter [REDACTED]</p> <p>6 A Yes, my daughter.</p> <p>7 Q You've got a daughter [REDACTED]. You have a</p> <p>8 daughter [REDACTED]</p> <p>9 A [REDACTED] a son. A son.</p> <p>10 Q And your son is [REDACTED]</p> <p>11 A [REDACTED]</p> <p>12 Q Okay. And all have the last name Wilburn?</p> <p>13 A Yes, but [REDACTED] she's married.</p> <p>14 Q [REDACTED]</p> <p>15 A Yes.</p> <p>16 Q Okay. And your son is in the service?</p> <p>17 A Yes.</p> <p>18 Q And --</p> <p>19 A [REDACTED]</p> <p>20 Q And there's [REDACTED]?</p> <p>21 A That's him in the service.</p> <p>22 Q So there's [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 A Yes.</p> <p>25 Q Okay. And is your husband aware that you filed</p>	<p style="text-align: right;">Page 127</p> <p>1 EXAMINATION</p> <p>2 by Mr. Malkinson:</p> <p>3 MR. MALKINSON: Q I have some questions for you.</p> <p>4 Did you mention your memory loss to Dr. Patel</p> <p>5 at any time?</p> <p>6 A No.</p> <p>7 Q You indicated that you received a call from the</p> <p>8 Osco pharmacy on April 27th of 2008 regarding the</p> <p>9 recall, correct?</p> <p>10 A Yes.</p> <p>11 Q And that that was -- Was that a Sunday?</p> <p>12 A Sunday evening.</p> <p>13 Q And did you have a doctor appointment coming up</p> <p>14 on that Tuesday?</p> <p>15 A Yes.</p> <p>16 Q Okay. And so I know you stated earlier that you</p> <p>17 thought you saw Dr. Patel about six days after you</p> <p>18 learned of the Digitek recall from Osco, but if it was</p> <p>19 that Tuesday, then it would just have been a couple days</p> <p>20 later, correct, that you saw him? You saw him the</p> <p>21 Tuesday after the Sunday you were told about it?</p> <p>22 A The Sunday or a Thursday.</p> <p>23 Q If his record shows you were there on April</p> <p>24 29th, you wouldn't have any reason to quarrel with that?</p> <p>25 A No.</p>
<p style="text-align: right;">Page 126</p> <p>1 this lawsuit?</p> <p>2 A Yes.</p> <p>3 Q Are your children aware that you filed a</p> <p>4 lawsuit?</p> <p>5 A Yes.</p> <p>6 MS. WEST: Can we go off the record for just a</p> <p>7 second.</p> <p>8 (Discussion had off the record.)</p> <p>9 MS. WEST: Okay. I have no further questions.</p> <p>10 RE-EXAMINATION</p> <p>11 by Mr. Simon:</p> <p>12 MR. SIMON: Q Mrs. Wilburn, one or two final</p> <p>13 questions.</p> <p>14 Do you continue to have heart palpitations and</p> <p>15 fibrillation?</p> <p>16 A When I went to my doctor the last, he said I</p> <p>17 still had some fibrillation, but the palpitation had</p> <p>18 eased up.</p> <p>19 MR. SIMON: That's all the questions I have for you,</p> <p>20 but we reserve the right to keep this deposition open</p> <p>21 pending receipt of medical and pharmacy records that we</p> <p>22 have not obtained yet.</p> <p>23 MR. MALKINSON: I'm going to -- I'll just interject</p> <p>24 an objection to that, but we'll worry about it when the</p> <p>25 time comes, because we could have waited for that.</p>	<p style="text-align: right;">Page 128</p> <p>1 Q Okay. When you went for that first visit after</p> <p>2 you became aware of the recall, did it appear to you</p> <p>3 that Dr. Patel was aware of the Digitek recall prior to</p> <p>4 your visit?</p> <p>5 A No, I told him.</p> <p>6 Q And, from your reaction, you felt he had been</p> <p>7 unaware of it?</p> <p>8 A Yes.</p> <p>9 MR. SIMON: Objection.</p> <p>10 MR. MALKINSON: Q Why did you believe he was</p> <p>11 unaware of it? What did he say or do?</p> <p>12 A He had his nurse to call the pharmacy to find</p> <p>13 out. She said yes.</p> <p>14 Q If your medical records show that you saw Dr.</p> <p>15 Patel -- Well, strike that.</p> <p>16 You mentioned several tests that you had taken</p> <p>17 shortly after the recall was made known to you, a</p> <p>18 digoxin blood level, EKG, CAT scan, stress level, et</p> <p>19 cetera, right?</p> <p>20 A Yes.</p> <p>21 Q Is it your contention that those were -- that</p> <p>22 you incurred expense from those because of the recall</p> <p>23 and the need to evaluate you, yourself, to see if you</p> <p>24 had suffered from any ill-impact from a high dose of</p> <p>25 Digitek?</p>

32 (Pages 125 to 128)

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Willie Mae Wilburn

Page 129	Page 131
<p>1 A Yes.</p> <p>2 Q Did your doctor -- Strike that.</p> <p>3 Did Dr. Patel ever give you any written</p> <p>4 material, information, about Digitek at any time that</p> <p>5 you've been under his care?</p> <p>6 A No.</p> <p>7 Q You mentioned a grandmother that you believed</p> <p>8 had heart problems. Is that just based on what you</p> <p>9 heard from other people?</p> <p>10 A Yes.</p> <p>11 Q You've never spoken with your grandmother's</p> <p>12 doctors or had any first-hand knowledge of --</p> <p>13 A No.</p> <p>14 Q -- whether or not she had heart problems?</p> <p>15 A No.</p> <p>16 Q After you found out about the Digitek recall you</p> <p>17 had some initial digoxin blood level tests done,</p> <p>18 correct?</p> <p>19 A Yes.</p> <p>20 Q And one of those tests was one of the ones that</p> <p>21 Dr. Patel told you was high?</p> <p>22 A Yes.</p> <p>23 Q I guess I'll preface my next question by saying,</p> <p>24 without waiving my objection on the collateral source</p> <p>25 rule, but to the extent we got limited by some court</p>	<p>1 lawsuit itself. You were asked whether you ever spoke</p> <p>2 to anyone about Digitek. You mentioned some family</p> <p>3 members. But did you -- You also spoke with lawyers</p> <p>4 regarding it, the Digitek problem?</p> <p>5 A Yes.</p> <p>6 Q Have you made it a point to keep in touch with</p> <p>7 your attorneys regarding the lawsuit?</p> <p>8 A Yes.</p> <p>9 Q What have you done in that regard?</p> <p>10 MR. SIMON: Objection.</p> <p>11 MR. MALKINSON: Q What have you done to keep up</p> <p>12 with it?</p> <p>13 A I have been in contact with a lawyer.</p> <p>14 Q That would be me?</p> <p>15 A Yes.</p> <p>16 Q Okay. What do you do to contact me?</p> <p>17 A To find out, you know, what I need to win.</p> <p>18 Q I'm saying, are you writing me letters? Are you</p> <p>19 calling me on the phone? What are you doing?</p> <p>20 A Calling.</p> <p>21 Q And you've also received contact back from your</p> <p>22 lawyers?</p> <p>23 A Yes.</p> <p>24 Q Do you have -- Is it your understanding that</p> <p>25 your lawsuit was ever transferred from one courthouse to</p>
Page 130	Page 132
<p>1 ruling on what amounts she can recover for, the whole</p> <p>2 bill or just what she paid, I'm going to ask a couple of</p> <p>3 questions without waiving our rights on that.</p> <p>4 When you would go to the hospital for the</p> <p>5 testing, was your copay just \$5?</p> <p>6 A No, it was more when I went to the hospital.</p> <p>7 Q Have you always taken your medicine as</p> <p>8 prescribed?</p> <p>9 A Yes.</p> <p>10 Q I think you -- Am I recalling correctly that you</p> <p>11 described earlier that the pharmacy -- or part of what</p> <p>12 the pharmacy told you was that the Digitek was a recall</p> <p>13 because some of the doses may have been higher than what</p> <p>14 they were supposed to be?</p> <p>15 A Yes.</p> <p>16 Q And am I correct in stating that part of your</p> <p>17 concern and motivation in bringing the case has to do</p> <p>18 with your sense that the company distributed and sold</p> <p>19 pills that had or may have had doses higher than the</p> <p>20 labeled dose of the pill?</p> <p>21 MR. SIMON: Objection.</p> <p>22 MS. WEST: Objection.</p> <p>23 MR. MALKINSON: Q You can answer.</p> <p>24 A Yes.</p> <p>25 Q I'm going to ask you some questions about the</p>	<p>1 another?</p> <p>2 A Yes.</p> <p>3 Q And where -- And what can you tell me about</p> <p>4 that?</p> <p>5 A I know it was in New Jersey first, and they had</p> <p>6 to transfer it to -- I can't recall the state.</p> <p>7 Q Do you recall if it was West Virginia?</p> <p>8 A West Virginia, yes.</p> <p>9 Q You've described today that you believe you</p> <p>10 became responsible for some expenses that were related</p> <p>11 to the recall of Digitek and the evaluation of you to</p> <p>12 see if you had any physical problems from the recall of</p> <p>13 Digitek, correct?</p> <p>14 A Yes.</p> <p>15 Q Is it your -- Do you have a feeling one way or</p> <p>16 the other, do you believe other people may have incurred</p> <p>17 similar expenses?</p> <p>18 MR. SIMON: Objection.</p> <p>19 MS. WEST: Objection.</p> <p>20 THE WITNESS: Yes.</p> <p>21 MR. MALKINSON: Q And is that the class of people</p> <p>22 that you are seeking to represent in this case?</p> <p>23 MR. SIMON: Objection.</p> <p>24 THE WITNESS: Yes.</p> <p>25 MS. WEST: Objection.</p>

33 (Pages 129 to 132)

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Willie Mae Wilburn

Page 133	Page 135
<p>1 MR. MALKINSON: Q Why do you think you would be a</p> <p>2 good representative?</p> <p>3 A Because I know for myself what I was feeling,</p> <p>4 and I'm quite sure they had the same symptoms as me.</p> <p>5 Q In terms of the expenses that were incurred by</p> <p>6 you, why do you think you'd be a good representative on</p> <p>7 any claim to recoup expenses for other people?</p> <p>8 MR. SIMON: Objection.</p> <p>9 MS. WEST: Objection.</p> <p>10 MR. MALKINSON: Q You can answer.</p> <p>11 A Okay. I had expenses and I know they did, too,</p> <p>12 because we all developed this digoxin problem.</p> <p>13 Q Do you believe the types of expenses you had</p> <p>14 were the same or similar to the types of expenses other</p> <p>15 people that were -- other people had that had been</p> <p>16 taking Digitek when it was recalled?</p> <p>17 MR. SIMON: Objection.</p> <p>18 MS. WEST: Objection.</p> <p>19 MR. MALKINSON: Q you can answer.</p> <p>20 A I can't tell --</p> <p>21 MR. MALKINSON: Can you read the question back,</p> <p>22 please. Listen to the question.</p> <p>23 (Record read.)</p> <p>24 MR. SIMON: Objection.</p> <p>25 MS. WEST: Objection.</p>	<p>1 A Yes, I reviewed it.</p> <p>2 Q And you looked through it?</p> <p>3 A I looked through it.</p> <p>4 Q And is it your understanding that at that time</p> <p>5 initially the claim included a class action claim that</p> <p>6 also at that time sought recovery for injuries as well</p> <p>7 as expenses?</p> <p>8 A Yes.</p> <p>9 Q And is it your understanding that the class</p> <p>10 portion of the claim has been modified since then?</p> <p>11 MR. SIMON: Objection.</p> <p>12 MS. WEST: Objection.</p> <p>13 MR. MALKINSON: Q Changed.</p> <p>14 A Yes.</p> <p>15 Q And so that now what is the class, what portion?</p> <p>16 What group are you trying to represent or what was</p> <p>17 changed?</p> <p>18 A The class action?</p> <p>19 Q Right. What is it now? Before it was injuries</p> <p>20 and expenses. What is it now?</p> <p>21 MR. SIMON: Objection.</p> <p>22 MS. WEST: Objection.</p> <p>23 THE WITNESS: Now it's a class action on the other</p> <p>24 persons.</p> <p>25 MR. MALKINSON: Q I'm asking you, what is your</p>
Page 134	Page 136
<p>1 THE WITNESS: Yes.</p> <p>2 MR. MALKINSON: Q If you were to be offered your</p> <p>3 own expenses back in this case, would that be good</p> <p>4 enough for you to just walk away from the case?</p> <p>5 A No.</p> <p>6 Q And why is that?</p> <p>7 A Well, I leave that up to the lawyers and judge.</p> <p>8 Q But why is it that you don't -- Do you just want</p> <p>9 your own expenses?</p> <p>10 A Yes.</p> <p>11 Q Or do you want the expenses for everybody?</p> <p>12 MR. SIMON: Objection.</p> <p>13 MS. WEST: Objection.</p> <p>14 THE WITNESS: I want the expense for everybody.</p> <p>15 MR. MALKINSON: Q So I'm asking you, if you were</p> <p>16 offered a reimbursement of your personal expenses</p> <p>17 incurred from the Digitek today, would that be enough to</p> <p>18 make you walk away?</p> <p>19 A No.</p> <p>20 Q You would -- Would you wish to stay on and</p> <p>21 pursue the case on behalf of everyone else that had the</p> <p>22 same issue?</p> <p>23 A Yes.</p> <p>24 Q When your lawsuit was first filed, you had an</p> <p>25 opportunity to review the complaint, correct?</p>	<p>1 understanding of what the class action part is for now?</p> <p>2 Is it to recover personal injuries for everyone or is it</p> <p>3 to recover for expenses of everyone?</p> <p>4 MR. SIMON: Objection.</p> <p>5 MS. WEST: Objection.</p> <p>6 MR. MALKINSON: Q Or both?</p> <p>7 MR. SIMON: Objection.</p> <p>8 MS. WEST: Objection.</p> <p>9 MR. MALKINSON: Q what is it today?</p> <p>10 MR. SIMON: Objection.</p> <p>11 THE WITNESS: Class action, because it recovers off</p> <p>12 of -- to help the people.</p> <p>13 MR. MALKINSON: Q Is it just for expense -- Is it</p> <p>14 just for the expenses now? Is it your understanding --</p> <p>15 Okay, strike that.</p> <p>16 Initially you understood that your lawsuit,</p> <p>17 when you first filed it in New Jersey, was for both a</p> <p>18 class action for everyone that was injured and a class</p> <p>19 action for everyone that incurred expenses from the</p> <p>20 Digitek, correct?</p> <p>21 MR. SIMON: Objection.</p> <p>22 MS. WEST: Objection.</p> <p>23 THE WITNESS: Everyone that was injured.</p> <p>24 MR. MALKINSON: Q And everyone that spent money</p> <p>25 correct?</p>

34 (Pages 133 to 136)

Willie Mae Wilburn

<p style="text-align: right;">Page 137</p> <p>1 A Yes.</p> <p>2 Q That's what I mean by expenses.</p> <p>3 A Yes.</p> <p>4 Q Okay. Is it your understanding that you've now</p> <p>5 withdrawn -- that we've withdrawn the class action part</p> <p>6 that pertains to the injuries and we're only pursuing</p> <p>7 the class action for expenses?</p> <p>8 MR. SIMON: Objection.</p> <p>9 MS. WEST: Objection.</p> <p>10 THE WITNESS: Yes.</p> <p>11 MR. MALKINSON: Q Some people -- Am I correct</p> <p>12 that, for all you know, some people that incurred</p> <p>13 expenses may feel that they were injured and some people</p> <p>14 may feel that they were not personally injured?</p> <p>15 MR. SIMON: Objection.</p> <p>16 MS. WEST: Objection.</p> <p>17 MR. MALKINSON: Q Correct? But they all may still</p> <p>18 have had expenses?</p> <p>19 A Yes.</p> <p>20 Q If you were selected in the future as a class</p> <p>21 representative, would you eagerly pursue the case on</p> <p>22 behalf of everyone that was in a similar situation and</p> <p>23 had a typical expense claim as you?</p> <p>24 MR. SIMON: Objection.</p> <p>25 MS. WEST: Objection.</p>	<p style="text-align: right;">Page 139</p> <p>1 A Yes.</p> <p>2 Q We talked about that. It was two days after you</p> <p>3 received a call from the pharmacy, correct?</p> <p>4 A Yes.</p> <p>5 Q On April 29th of 2008 did you report to Dr.</p> <p>6 Patel that you were having palpitations?</p> <p>7 A Yes.</p> <p>8 Q On April 29th of 2008 did you tell Dr. Patel you</p> <p>9 were experiencing dizziness?</p> <p>10 A Yes.</p> <p>11 Q Were you also experiencing nausea when you went</p> <p>12 to go see Dr. Patel on April 29th?</p> <p>13 A March.</p> <p>14 Q We're still just talking about April 29th.</p> <p>15 A Yes.</p> <p>16 MR. MALKINSON: He's asking if you complained of</p> <p>17 nausea on that day. If you remember, then tell him. If</p> <p>18 you don't remember, then tell him you don't remember.</p> <p>19 THE WITNESS: I can't remember that day.</p> <p>20 MR. SIMON: That's all the questions I have. Thank</p> <p>21 you.</p> <p>22 RE-EXAMINATION</p> <p>23 by Mr. Malkinson:</p> <p>24 MR. MALKINSON: Q Your symptoms during this period</p> <p>25 in April and May of 2008 varied a little from</p>
<p style="text-align: right;">Page 138</p> <p>1 THE WITNESS: Yes.</p> <p>2 MR. MALKINSON: Q Is it your understanding that</p> <p>3 your attorneys are advancing the costs of the</p> <p>4 litigation?</p> <p>5 A Yes.</p> <p>6 MR. MALKINSON: I'm done.</p> <p>7 FURTHER EXAMINATION</p> <p>8 by Mr. Simon:</p> <p>9 MR. SIMON: Q Mrs. Wilburn, I want to take you</p> <p>10 back to the April 29th of 2008 visit you had with Dr.</p> <p>11 Patel. Do you remember that time period just after the</p> <p>12 recall?</p> <p>13 A Yes.</p> <p>14 Q Did you tell Dr. Patel that you were having</p> <p>15 palpitations at that time?</p> <p>16 MR. MALKINSON: If you recall.</p> <p>17 THE WITNESS: He had told me.</p> <p>18 MR. SIMON: Q So Dr. Patel told you on the April</p> <p>19 29th of 2008 visit that you were having palpitations?</p> <p>20 A He told me I was having palpitations. He told</p> <p>21 me in February or March that I was having them.</p> <p>22 Q I'm just talking about April 29th of 2008 when</p> <p>23 you went to go see Dr. Patel.</p> <p>24 A Yes.</p> <p>25 Q You went to go see him on that date, correct?</p>	<p style="text-align: right;">Page 140</p> <p>1 day-to-day; is that right?</p> <p>2 A Yes.</p> <p>3 Q And am I correct that if -- Well, strike that.</p> <p>4 If Dr. Patel's records for a particular visit</p> <p>5 might show that you didn't make complaints that you may</p> <p>6 have stated you made, could it be that you simply just</p> <p>7 have the day confused with another day when you were</p> <p>8 having those symptoms? Do you understand what I'm</p> <p>9 asking you?</p> <p>10 If you went in and his records said you had no</p> <p>11 complaint, but you did say you had complaints on the</p> <p>12 29th, could it be, as you sit here today, you are</p> <p>13 confused about which day; you just know you had those</p> <p>14 symptoms somewhere during that period, but it may not</p> <p>15 have been that day?</p> <p>16 MR. SIMON: Objection.</p> <p>17 MS. WEST: Objection.</p> <p>18 THE WITNESS: It may not have been that day.</p> <p>19 MR. MALKINSON: Okay. Done. We'll reserve.</p> <p>20 (Whereupon, the deposition was concluded.)</p> <p>21 MR. MALKINSON: I'm just going to make a short</p> <p>22 statement regarding the evaluation of the tablets that</p> <p>23 were contained in Ms. Wilburn's pill bottle that we</p> <p>24 brought with us today. I have no objection to the</p> <p>25 evaluation that counsel wants to do. It's going to be</p>

35 (Pages 137 to 140)

Willie Mae Wilburn

<p style="text-align: right;">Page 141</p> <p>1 done off the record.</p> <p>2 The statement I want to make is that I don't</p> <p>3 know anything about the calibration of the equipment, so</p> <p>4 I'm not -- by allowing it to happen, I'm not attesting</p> <p>5 to the accuracy of any of the findings, but we're going</p> <p>6 to sit here and get it done. We'll do this evaluation,</p> <p>7 and Ms. Wilburn will sit through that process as well.</p> <p>8 Thank you.</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 143</p> <p>1 Witness my official signature and seal as</p> <p>2 Notary Public in and for Cook County, Illinois on this</p> <p>3 _____ day of _____, A.D. 2009.</p> <p>4</p> <p>5</p> <p>6 NADINE J. WATTS, CSR, RPR</p> <p>7 License No. 084-002736</p> <p>8 Notary Public</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 142</p> <p>1 STATE OF ILLINOIS )</p> <p>2 ) SS:</p> <p>3 COUNTY OF C O O K )</p> <p>4</p> <p>5 The within and foregoing deposition of the</p> <p>6 aforementioned witness was taken before NADINE J. WATTS,</p> <p>7 CSR, RPR and Notary Public, at the place, date and time</p> <p>8 aforementioned.</p> <p>9 There were present during the taking of the</p> <p>10 deposition the previously named counsel.</p> <p>11 The said witness was first duly sworn and was</p> <p>12 then examined upon oral interrogatories; the questions</p> <p>13 and answers were taken down in shorthand by the</p> <p>14 undersigned, acting as stenographer and Notary Public;</p> <p>15 and the within and foregoing is a true, accurate and</p> <p>16 complete record of all of the questions asked of and</p> <p>17 answers made by the forementioned witness, at the time</p> <p>18 and place hereinabove referred to.</p> <p>19 The signature of the witness was not waived,</p> <p>20 and the deposition was submitted, pursuant to Rules</p> <p>21 30(e) of the Rules of Civil Procedure for the United</p> <p>22 States District Courts, to the deponent per copy of the</p> <p>23 attached letter.</p> <p>24 The undersigned is not interested in the</p> <p>25 within case, nor of kin or counsel to any of the</p> <p>parties.</p>	<p style="text-align: right;">Page 144</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA</p> <p>3 CHARLESTON DIVISION</p> <p>4 IN RE: DIGITEK PRODUCT LIABILITY ) MDL NO. 1968</p> <p>5 LITIGATION )</p> <p>6 )</p> <p>7 THIS DOCUMENT RELATES ONLY TO: )</p> <p>8 )</p> <p>9 Kevin Clark and Willie Mac )</p> <p>10 Wilburn, Individually and on )</p> <p>11 behalf of all others similarly )</p> <p>12 situated, )</p> <p>13 Plaintiffs, )</p> <p>14 )</p> <p>15 vs. ) MDL NO. 2:08-1017</p> <p>16 )</p> <p>17 ACTAVIS GROUP, hf, et al., )</p> <p>18 Defendants. )</p> <p>19</p> <p>20</p> <p>21 I hereby certify that I have read the</p> <p>22 foregoing transcript of my deposition given at the time</p> <p>23 and place aforesaid, consisting of Pages 1 to 144,</p> <p>24 inclusive, and I do again subscribe and make oath that</p> <p>25 the same is a true, correct, and complete transcript of</p> <p>my deposition so given as aforesaid, and includes</p> <p>changes, if any, so made by me.</p> <p>_____</p> <p>WILLIE MAE WILBURN</p> <p>SUBSCRIBED AND SWORN TO before me this</p> <p>_____ day of _____, 2009.</p> <p>Notary Public</p>

36 (Pages 141 to 144)

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Willie Mae Wilburn

Page 145

1 CASE: Willie Mae Wilburn vs. Actavis, et al.

2 DATE TAKEN: August 6, 2009

3 DEPONENT: Willie Mae Wilburn

4 PAGE LINE ERRATA SHEET

5 \_\_\_\_\_ CHANGE: \_\_\_\_\_

6 \_\_\_\_\_ REASON: \_\_\_\_\_

7 \_\_\_\_\_ CHANGE: \_\_\_\_\_

8 \_\_\_\_\_ REASON: \_\_\_\_\_

9 \_\_\_\_\_ CHANGE: \_\_\_\_\_

10 \_\_\_\_\_ REASON: \_\_\_\_\_

11 \_\_\_\_\_ CHANGE: \_\_\_\_\_

12 \_\_\_\_\_ REASON: \_\_\_\_\_

13 \_\_\_\_\_ CHANGE: \_\_\_\_\_

14 \_\_\_\_\_ REASON: \_\_\_\_\_

15 \_\_\_\_\_ CHANGE: \_\_\_\_\_

16 \_\_\_\_\_ REASON: \_\_\_\_\_

17 \_\_\_\_\_ CHANGE: \_\_\_\_\_

18 \_\_\_\_\_ REASON: \_\_\_\_\_

19 \_\_\_\_\_ CHANGE: \_\_\_\_\_

20 \_\_\_\_\_ REASON: \_\_\_\_\_

21 \_\_\_\_\_ CHANGE: \_\_\_\_\_

22 \_\_\_\_\_ REASON: \_\_\_\_\_

23 \_\_\_\_\_

24 (SIGNED) \_\_\_\_\_

25 Reporter: Nadine J. Watts, CSR, RPR

37 (Page 145)

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